

NO. 48150-2

**COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON**

In re the Detention of:

DALE ROUSH,

Appellant,

v.

STATE OF WASHINGTON,

Respondent.

RESPONDENT'S OPENING BRIEF

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I. INTRODUCTION

This case arises from the post-commitment procedures to the Sexually Violent Predator Act, RCW 71.09. Dale Roush was committed as a sexually violent predator in 2002, and has been continuously confined since that time. In 2014, the parties entered a stipulated order granting Roush a trial on the issue of placement in a less restrictive alternative (“LRA”). Under the explicit terms of that order, which tracks the language of the statute, the only issues to be decided at the LRA trial were (i) whether the proposed LRA is in Roush’s best interest; and (ii) includes conditions that would adequately protect the community. At the conclusion of trial, the court, over Roush’s general objection, instructed the jury that Roush was currently a sexually violent predator. Roush now argues that this instruction constituted a comment on the evidence, in violation of Art. IV, §16 of the Washington State Constitution, and asks that the judgement be reversed. This Court should affirm the Order of the trial court, because 1) Roush’s release to an LRA in July of this year renders this case moot; 2) Roush, having not lodged a specific objection to the instruction below, did not preserve this issue for appeal; 3) the instruction was not a comment on the evidence because it did not go to a contested issue at trial and was an accurate statement of the law. The trial court’s Order should be affirmed.

II. ISSUES

Where the only issues to be decided at a trial on the issue of conditional release to a less restrictive alternative were whether the proposed less LRA is in the best interest of the sexually violent predator and includes conditions that would adequately protect the community, did the the trial court err in giving a jury instruction that stated that Roush continued to be an sexually violent predator?

III. FACTS

Dale Roush has a long history of sexual violence. In its unpublished decision affirming his commitment as a Sexually Violent Predator (“SVP”) in 2002, this Court summarized some of that history as follows:

In 1978, then-23-year-old Roush tried to rape a 16-year-old hitchhiker after threatening him with a pellet gun. Roush pleaded guilty to first degree assault, for which the court sentenced him to a maximum term of 20 years. He was paroled about five years later in May 1983.

Ten months later, in March 1984, Roush assaulted another hitchhiker, threatening him with a knife, tying him up, trying to perform oral sex on him, and trying unsuccessfully to rape him anally. The State charged Roush with assault, unlawful imprisonment, and robbery. A jury convicted Roush on the robbery charge, and the court sentenced him to the maximum term of 20 years. Roush was paroled four years later in October 1988.

Eight months later, in June 1989, Roush raped an 18-year-old co-worker, S.C. Roush put a knife to S.C.’s throat, handcuffed him, became aroused at the thought of beating him, performed oral sex on him, forced S.C. to do the same to Roush, and anally raped S.C. Roush was convicted of

first degree rape, and the court sentenced him to 10 years and 6 months in prison.

In 2002, while Roush was in prison, the State filed a civil commitment petition under chapter 71.09 RCW. At the hearing, the trial court permitted Roush's younger sister to testify, over objection, that Roush had sexually assaulted her several times a week beginning when she was about five years old and not ceasing until her early teens when Roush went to jail. She never reported these assaults. Roush maintains that his sexual orientation is strictly homosexual and that he has been in 'intimate and affectionate sexual relationships.'

Roush v. State, 2004 WL 1157833.

Since his commitment, Roush has been continuously confined at the Special Commitment Center on McNeil Island. His condition has been reviewed annually by the Department of Social and Health Services ("DSHS") as required by RCW 71.09.070.¹ In 2014, based on Roush's submission of a conditional release plan to the community, the parties

a. ¹RCW 71.09.070 reads in pertinent part as follows:

- (1) Each person committed under this chapter shall have a current examination of his or her mental condition made by the department at least once every year.
- (2) The evaluator must prepare a report that includes consideration of whether:
 - (a) The committed person currently meets the definition of a sexually violent predator;
 - (b) Conditional release to a less restrictive alternative is in the best interest of the person; and
 - (c) Conditions can be imposed that would adequately protect the community...
- (6) (a) The committed person may retain, or if he or she is indigent and so requests, the court may appoint a qualified expert or a professional person to examine him or her, and such expert or professional person shall have access to all records concerning the person.

agreed that Roush was entitled to an evidentiary hearing on the question of whether conditional release to an LRA was in his best interests and whether his proposed LRA plan included conditions that will adequately protect the community. CP at 212.²

Trial commenced on September 24, 2015, and concluded on October 6, 2015. At trial, the State presented the testimony of Dale Roush (9/28/15 RP at 6-160), Dwain Sparrowk (investigator, Office of the Attorney General; 9/28/15 RP at 161- 9/29/15 RP at 24), Robert Hall, Manager of Roush's proposed housing in the community (9/29/15 RP 25-64), and Dr. Amy Phenix, Ph.D., the State's expert. (9/29/15 at 65-9/30/15 133). Roush presented the testimony of his expert, Dr. Luis Rosell, Psy.D. (9/30/15 RP at 135-150; 10/1/15 RP at 4-150; 10/5/15 RP at 4-44), Heather Turner, a release-planning specialist employed by Roush's attorneys (10/5/15 RP at 45-80), Lawrence Jorden, a food service supervisor who supervised Roush in the SCC's kitchen (10/5/15 RP at 81-93); Michael Catania, A Residential Rehabilitation Counselor at the SCC (10/5/15 at RP at 94-102) and Jeanglee Tracer, Roush's proposed community treatment provider. 10/6/15 RP at 4-61.

² Because the court had not previously considered an LRA, Roush was not required to show probable cause that he had "so changed" such that an LRA was appropriate. RCW 71.09.090(2)(d),

At the close of evidence, the court instructed the jury. Over Roush's objection, the court issued Instruction No. 3, which provided as follows:

Respondent is a sexually violent predator. "Sexually Violent Predator" means any person who has been convicted of a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility.

CP at 1352. The jury returned a unanimous verdict to deny Roush's request for release to an LRA. CP at 1346. An order denying Roush's release to an LRA was entered (CP at 1362), and this appeal follows.

IV. ARGUMENT

A. The Statutory Scheme Relating To Less Restrictive Alternative Trials

Pursuant to RCW 71.09.070, a person committed as an SVP to the custody of DSHS is entitled to an annual review of his mental condition by DSHS. DSHS's annual review evaluation must address whether the committed person continues to meet the definition of an SVP, as well as whether conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that would adequately protect the community. RCW 71.09.070(1). The SVP may also submit his own expert evaluation to the court. *Id.* At the show cause hearing that follows these submissions, the prosecuting agency "shall

present prima facie evidence establishing that the committed person continues to meet the definition of a sexually violent predator and that a less restrictive alternative is not in the best interest of the person and conditions cannot be imposed that adequately protect the community.” RCW 71.09.090(2)(b). Once this prima facie showing has been made, a new trial may be ordered only if the respondent can show that “probable cause exists to believe that the person’s condition has so changed that: (A) The person no longer meets the definition of a sexually violent predator; *or* (B) release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community.” RCW 71.09.090(2)(c). If the court has not previously considered the issue of release to a less restrictive alternative, no showing of change is required. RCW 71.09.090(2)(d).

If the court at the show cause hearing determines that either: (i) The state has failed to present prima facie evidence that the committed person continues to meet the definition of a sexually violent predator and that no proposed less restrictive alternative is in the best interest of the person and conditions cannot be imposed that would adequately protect the community; or (ii) probable cause exists to believe that the person’s condition has so changed that: (A) The person no longer meets the definition of a sexually violent predator; or (B) release to a proposed less

restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community, then the court shall set a hearing on either or both issues.

These requirements have withstood repeated challenge in the appellate courts of this State, most recently in *State v. McCuiston*, 174 Wn.2d 369, 275 P.3d 1092 (2012).

B. Roush's Appeal Is Moot

Roush argues that this Court should reverse the trial court's order denying his proposed conditional release and remand for a new LRA trial. App. Br. at 22. Because Roush has, since the entry of that Order, been released to an LRA, this appeal is moot and should be dismissed by this Court.

A case is moot if a reviewing court can no longer order effective relief to the parties. *Orwick v. City of Seattle*, 103 Wn.2d 249, 253, 692 P.2d 793 (1984) "It is a general rule that, where only moot questions or abstract propositions are involved, or where the substantial question involved in the trial court no longer exist, the appeal...should be dismissed." *Sorenson v. City of Bellingham*, 80 Wn.2d 547, 558, 496 P.2d 512 (1972). The United States Supreme Court has made clear that, in order to go forward with an otherwise moot case, there must be a "reasonable expectation" or a "demonstrated

probability’ that the same controversy will recur involving the same complaining party.” *Murphy v. Hunt*, 455 U.S. 478, 482, 102 S.Ct. 1181, 71 L.Ed.2d 353 (1982) (citing *Weinstein v. Bradford*, 423 U.S. 147, 149, 96 S.Ct. 347, 46 L.Ed.2d 350 (1975)). “[A] mere physical or theoretical possibility” is not enough. *Id.*

The Order denying Roush’s conditional release to an LRA was entered on October 14, 2015. CP at 1362. Roush was subsequently authorized to petition the trial court for release to an LRA at a Secure Community Transition Facility (SCTF) pursuant to RCW 71.09.090(1) and, on June 27, 2016, an Order was entered directing Roush’s release to the SCTF on July 27, 2016, “or as soon thereafter as reasonably possible.” *See* Attachment A, Order on Release to LRA at 5, No. 1.

Because Roush’s requested relief was release to an LRA, and because he has now been released to an LRA, he has obtained the relief he sought, there is no further relief this Court can grant him, and his appeal is moot. Pursuant to the terms of his current release order, his treatment provider will be Jeanglee Tracer, the treatment provider proposed at trial. *Cf.* App. A at 7, No. 1 and CP at 2). The Treatment Plan developed by Ms. Tracer is identical to that proposed at trial (*cf.* App. A at 66-69 and CP at 15-18), as well as the Sex Offender Treatment Program Contract (*cf.* App. A at 73-74 and CP 9-10), and Treatment Rules and Policies. *Cf.* App. A at

75-78 and CP at 11-14. Likewise, the steps to be taken by the Department of Corrections (“DOC”) to ensure community protection (App. A at 81-82) is consistent with the stipulated testimony of the DOC Community Corrections Officer, Dominic Winter, presented at trial. CP at 975-77.

Roush may argue that, because he sought release to a particular address in the community and is now being released to another one (the SCTF), this appeal is not moot. This argument would fail in that, as the statutory scheme makes clear, the verdict of a jury that a person should be released on an LRA is not a guarantee of ultimate placement at that specific address.

At the conclusion of a trial on the issue of conditional release to an LRA, the jury’s verdict is only whether that person can or cannot be released to an LRA. RCW 71.09.094(2);³ CP 1346. While the particular LRA to which the SVP seeks release is presented as evidence at trial, a jury verdict in favor of an LRA is no guarantee the SVP will actually be released to that specific location or facility. Following that verdict, and upon a determination that the minimum conditions set forth in RCW 71.09.092 have been met, “the court shall enter judgment and direct a

³ RCW 71.09.094(2) reads as follows: “Whenever the issue of conditional release to a less restrictive alternative is submitted to the jury, the court shall instruct the jury to return a verdict in substantially the following form: Has the state proved beyond a reasonable doubt that either: (a) the propose less restrictive alternative is not in the best interests of respondent; or (b) does not include conditions that would adequately protect the community? Answer: Yes or No.”

conditional release.” RCW 71.09.096(1). Prior to authorizing any release, however, the court must order DOC to investigate the proposed LRA and recommend any additional conditions to the court. RCW 71.09.096(4). Among the conditions that can be recommended is “specification of residence.” *Id.* If the court finds “that conditions do not exist that will both ensure the person’s compliance with treatment and protect the community,” the person “shall be remanded to the custody of the Department Of Social And Health Services (“DSHS”) for control, care, and treatment in a secure facility as designated in RCW 71.09.060(1).” A “secure facility,” as defined by RCW 71.09 020(15), may include “a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community.” This includes “total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.” In other words, if the court determines that the housing component of the proposed LRA is insufficiently secure, the person may be placed in one that is.

Roush was granted a trial on the issue of whether he should be release to an LRA. CP at 4-7. He has now been released to an LRA. App. A. Even had he prevailed at trial, there was no guarantee that he would ultimately end up at the residential location he proposed and about which

he presented evidence at trial. Roush having now been granted the relief he requested—release to an LRA—there is no relief this Court can grant and his appeal should be dismissed as moot.

C. Roush Did Not Preserve His Objection To Instruction No. 3

Roush, by not making a specific objection to Instruction No. 3 below, did not preserve an objection and as such cannot raise the claim that the instruction constitutes an impermissible comment on the evidence for the first time on appeal.

CR 51(f) requires a party objecting to a jury instruction to “state distinctly the matter to which he objects and the grounds of his objection” This objection allows the trial court to remedy error before instructing the jury, avoiding the need for a retrial. *Egede–Nissen v. Crystal Mt., Inc.*, 93 Wn.2d 127, 134, 606 P.2d 1214 (1980). “The pertinent inquiry on review is whether the exception was sufficient to apprise the trial judge of the nature and substance of the objection.” *Crossen v. Skagit County*, 100 Wash.2d 355, 358, 669 P.2d 1244 (1983). So long as the trial court understands the reasons a party objects to a jury instruction, the party preserves its objection for review. *Washburn v. City of Federal Way*, 178 Wn.2d 732, 310 P.3d 1275 (2013).

Roush now argues that Instruction No. 3 constitutes a comment on the evidence. At trial, however, he did not raise this objection, instead

arguing simply that the statute “does not require that the court instruct the jury that Mr. Roush, currently, is a sexually violent predator,” and submitting his own instruction noting only that Roush had previously been determined to be an SVP. 10/5/15 RP at 39-40.⁴ While this objection was sufficient to put the trial judge on notice that Roush did not like the State’s instruction, it made no mention of his current theory, and was in no way “sufficient to apprise the trial judge of the nature and substance of the objection.” *Crossen*, 100 Wn.2d at 358. Roush cannot be said to have preserved this issue for appellate review. Nor is there any reason to conclude that the Court should make an exception to this general rule: While RAP 2.5 permits a party to raise certain errors for the first time on appeal,⁵ Roush does not reference this rule, or attempt to argue why any of its exceptions might apply here.

⁴ The State, in turn, objected to Roush’s proposed instruction (CP at 723,742), arguing that the trial court had previously ruled that trial counsel “can’t argue that he no longer meets the definition [of an SVP]” (*see* CP at 785) and that “it is a matter of law that Respondent is a sexually violent predator.” 10/5/15 RP at 39. Roush’s proposed instruction, the State continued, “seems to insinuate that he was a sexually violent predator in 2002 and that he may not be any more.” *Id.*

⁵RAP 2.5 provides in pertinent part as follows: “A party may raise the following claimed errors for the first time in the appellate court: (1) lack of trial court jurisdiction, (2) failure to establish facts upon which relief can be granted, and (3) manifest error affecting a constitutional right.”

D. Instruction No. 3, Which Was A Correct Statement Of The Law, Was Not A Comment On The Evidence

Roush argues that the trial court erred in giving “a completely erroneous and prejudicial” jury instruction that “declared” that he ““is a sexually violent predator.”” App. Br. at 1. This instruction, he argues, constituted an “egregious comment on the evidence[.]” *Id.*

This argument fundamentally misapprehends the nature of an LRA trial. An LRA trial is not a re-adjudication of the person’s SVP status. Rather, it addresses only the question of whether *the SVP* can continue treatment, as *an SVP*, in a less restrictive alternative environment. Moreover, Roush’s argument is premised on the erroneous assertion that Roush’s continuing status as an SVP was a fact that the State was required to prove at trial; rather, it was simply a correct statement of the law, and his argument fails. This point is supported by Roush’s trial counsels’ numerous statements to the effect that they understood and agreed that Roush’s continuing status as an SVP was not at issue in that trial.

1. Roush’s continuing status as an SVP was not at issue in his LRA trial.

A judge is prohibited by Art. IV, § 16 of the Washington State Constitution from “conveying to the jury his or her personal attitudes toward the merits of the case” or instructing a jury that “matters of fact have been established as a matter of law.” *State v. Becker*, 132 Wn.2d 54,

64, 935 P.2d 1321(1997). Any remark that has the potential effect of suggesting that the jury need not consider an element of an offense could qualify as judicial comment. *State v. Levy*, 156 Wn.2d 709, 721,132 P.3d 1076 (2006).

Roush's argument that the trial court commented on the evidence fails because whether Roush was or was not an SVP at the time of trial was not "an element of an offense" and was not at issue in his LRA trial. Rather, it was simply an accurate statement of law and as such was entirely proper.

An individual, having been determined to be an SVP, remains an SVP until the person is judicially determined to no longer be an SVP and the SVP proceeding is dismissed. "[O]nce a fact finder has determined that an individual meets the criteria for commitment as an SVP, the court accepts this initial conclusion as a verity in determining whether an individual is mentally ill and dangerous at a later date." *McCuiston*, 174 Wn.2d at 384-85. Roush, having been determined to be an SVP at the time of his initial commitment in 2002, continued to be an SVP at the time of his LRA trial in 2015.

Indeed, if he were determined to no longer be an SVP, both the statute and the Constitution would require his unconditional release. If a court or jury determines that the State has not met its burden of proving

that a person is a sexually violent predator, “the court shall direct the person’s release.” RCW 71.09.060(1). Likewise, “[u]nder the due process clause of the Fourteenth Amendment, an individual subject to civil commitment is entitled to release upon a showing that he is no longer mentally ill or dangerous.” *McCuistion*, 174 Wn.2d at 384 It is the individual’s status as an SVP that gives the court continuing jurisdiction over that person: “A court has jurisdiction to order a less restrictive alternative placement only after a hearing ordered pursuant to RCW 71.09.090 **following initial commitment**.... RCW 71.09.060(4) (emphasis added).

This point is amply illustrated by Division I’s decision in *In re Detention of Bergen*, 146 Wn. App. 515, 528, 195 P.3d 529(2008). Bergen, an adjudicated SVP, sought release to an LRA, and alleged that certain of the Statute’s provisions relating to an LRA determination were unconstitutional. In considering his case, the court repeatedly referenced the fact that Bergen’s was not a case involving an initial commitment, and that, in analyzing his due process claim, “it is important to recognize that Bergen does not contend he is no longer an SVP. **He seeks release into the community as an adjudicated sexually violent predator.**” *Id.*, 146 Wn. App. at 525 (emphasis added). The Due Process Clause, the Court wrote, “does not create a liberty interest when a sexually violent predator seeks

release before the court has determined that he or she is no longer likely to reoffend...” *Id.* at 525. The State, the Court continued, “must prove that a person is both mentally ill and dangerous to justify civil commitment under the due process clause of the Constitution.” *Id.* at 527.

Here, the State met that burden when Bergen was adjudicated an SVP. As the State points out, he does not challenge that finding or seek release, but only seeks an alternative placement as an SVP. Thus, his continued commitment is still supported by findings of mental illness and dangerousness and his unchallenged status as an SVP. ***The LRA determination is a separate inquiry and is focused on whether the SVP—who has already been found to be dangerous and mentally ill—should be transferred to a less restrictive placement*** that will continue to serve the statutory objectives of treating the SVP and keeping the community safe.

Id. at 527-28 (emphasis added). Rejecting Bergen’s argument that the “best interests” standard violated due process, the court concluded that,

[t]he “best interests” standard is ***directly related to the SVP’s dangerousness and mental illness*** and is narrowly tailored to serve the State’s compelling interest in appropriately treating dangerous sex offenders.

Id. at 529 (emphasis added). This statement makes clear that the SVP’s continuing dangerous and mental illness is assumed in any case involving LRA placement.

Although Roush, unlike Bergen, does not raise a challenge to the constitutionality of the Statute, his case is in the identical procedural posture as that of Bergen and as such the Court’s remarks regarding

Bergen's continuing status as an SVP apply with equal force to Roush. There, as here, Bergen, an adjudicated SVP, sought release to the community. There, as here, Bergen did not challenge his continued status as an SVP. There, as here, the SVP's request for release to a less restrictive alternative occurred against the backdrop of his continuing status as a sexually violent predator. To instruct the jury on this uncontested matter of law was not error.

2. Roush's trial counsel understood and repeatedly stated that Roush's continuing SVP status was not at issue in his LRA trial.

In contrast to Roush's arguments here, his trial counsel clearly understood—and even argued—that Roush's continuing status as an SVP was not at issue in his LRA trial. As noted above, the parties stipulated to entry of an order granting Roush's request for a trial on the issue of conditional release to an LRA. CP at 4-7. In that Stipulated Order, the trial court specifically found—based on the parties' agreement—that the State had presented prima facie evidence that Roush continued to be an SVP. CP at 2, No. 5. Had the State not made that prima facie case, or had the trial court determined that Roush had presented prima facie evidence that he was no longer an SVP, he would have been entitled to a trial on that issue. *In re Detention of Petersen v. State*, 145Wn.2d 789, 799, 42 P.3d 952 (2002); RCW 71.09.090(2)(c). The State, however, made its prima

facie showing and Roush did not, and thus Roush's trial was restricted to the question of whether he, as an SVP, should be released to an LRA. CP at 6, No. 4. As such, the fact finder's inquiry at trial is whether the State has proven beyond a reasonable doubt that either (a) the proposed less restrictive alternative is not in the best interest of Respondent; or (b) does not include conditions that would adequately protect the community. RCW 71.09.090(3)(d), .094(2).

Likewise, Roush's trial counsel repeatedly made clear that Roush was not contesting his continuing status as a sexually violent predator. During argument outside the presence of the jury on the scope of the State's cross examination of Dr. Rosell, Roush's trial counsel agreed that "[t]he issues before the Court are two, 'best interests' and 'adequate protection of the community.'" 10/01/15 RP at 112. Dr. Rosell, he continued, "did not opine that [Roush] doesn't meet criteria." *Id.* "As a matter of fact," counsel continued, "the State asked the Court to not allow us to argue that and in some ways properly so, if he must be a sexually violent predator to be on a less restrictive alternative...***We're not challenging SVP status in this proceeding.***" *Id.* (emphasis added). Indeed, Roush's counsel sought to prevent the State from asking questions "related to whether he meets criteria for a sexually violent predator" because "[t]hat's not the issue for this trial." *Id.* at 117. Such questions are

“not properly presented to the jury and that’s the question ultimately of mental abnormality regarding criteria for a sexually violent predator, *which is not the question today. That is not what’s before the Court.* What’s before the Court is ‘adequate protection of the community’ and ‘best interests’ for Mr. Roush in treatment.” *Id.* at 119 (emphasis added).

3. Instruction No. 3 did not unfairly prejudice Roush

Roush argues that the court’s “judicial comment on the evidence badly prejudiced Mr. Roush.” App. Br. at 16. “The State,” he continues, “used what Instruction No. 3 declared to show that as a matter of law, Dr. Phenix was right and Dr. Rosell was wrong.” *Id.* at 19.

Where improper argument is claimed, “the defense bears the burden of establishing the impropriety of the prosecuting attorney’s comments as well as their prejudicial effect.” *State v. Gentry*, 125 Wn.2d 570, 888 P.2d 1105 (1995). There was nothing improper in the State’s repeated reference to the law, i.e. to Roush’s continuing status as an SVP. Moreover, Roush has waived any argument relating to the State’s reference to his status as an SVP by failing to object at the time of trial: The failure to object to a prosecuting attorney’s improper remark constitutes a waiver of such error unless the remark is deemed to be so flagrant and ill-intentioned that it evinces an enduring and resulting

prejudice that could not have been neutralized by an admonition to the jury. *Id.*, 125 Wn.2d at 596.

As previously discussed, the fact that Roush continued, as a matter of law, to be a sexually violent predator was not in dispute at trial. Instruction No. 3, in addition to stating that Roush was an SVP, explained that this meant that he “suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility.” CP at 1352. While the State (properly) made reference to his risk during closing, the focus of closing remained whether, given that risk, he could be safely treated in his proposed LRA. *See*, e.g. 10/6/15 RP at 3-39. Where “the committed individual has already been *found to be a danger to the community* and does not challenge that finding,” (*Bergen*, 146 Wn. App. at 536 (emphasis added)) there is no obstacle to the prosecutor arguing this to the jury.

E. Roush’s additional arguments are without merit.

Roush offers various arguments in support of his assertion that the contested jury instruction was improper. All fail. Roush argues, for example, that the State’s argument that it is the detained person’s continuing status as an SVP that gives the court jurisdiction to impose conditions of release “does not morph into a jury instruction that declares as a matter of law that events in question happened within the county

where the court sits.” App. Br. at 11. This statement, and its attempt to analogize an LRA trial to a criminal adjudication of guilt, reveals a fundamental confusion about the nature of the LRA proceeding. If an analogy to the criminal law is to be made, the better analogy would be to a sentencing hearing: It is understood, in that context, that the person has been convicted of a crime, and it is only the fact of that conviction that gives the court authority to sentence the person. Likewise, it is only the fact of the person’s having been determined to be an SVP—and that person’s continuing status as an SVP—that gives the trial court jurisdiction to place that person in less restrictive facility and to enter an order regarding what the terms of that release will be. The functional equivalent of Roush’s hypothetical instruction “that declares as a matter of law that events in question happened” (App. Br. at 12) would be an instruction declaring as a matter of law that an LRA is not in Roush’s best interest and conditions cannot be imposed that would adequately protect the community. The State did not request this, and to have so instructed the jury would be error. Conditional release, in which the individual remains under the jurisdiction of the court both for the purpose of imposing conditions and monitoring the person’s compliance with those conditions, cannot, however, happen in the absence of the person’s

continued status as an SVP. If that person continues, as a matter of law, to be an SVP, there is no error in giving an instruction to that effect.

Roush further argues that if, within the context of an LRA trial, the trial court gives an instruction stating that Roush is currently an SVP, “the same would be true for an unconditional discharge trial under .090(3)(c) and that would absurdly amount to directing the fact finder to render a verdict for the State.” App. Br. at 12-13. This argument likewise fails. On any post-commitment trial on the issue of unconditional release, “the burden of proof shall be upon the state to prove beyond a reasonable doubt that the committed person’s condition *remains such that the person continues to meet the definition of a sexually violent predator.*” RCW 71.09.090(3)(c)(emphasis added). Clearly, where the State has the burden of proof as to a particular issue (“that the committed person’s condition remains such that the person continues to meet the definition of a sexually violent predator”), a statement to the effect that the very thing the State must prove has already been established would obviously be improper. Here, however, as repeatedly acknowledged by trial counsel, the question of whether Roush was or was not an SVP was not before the jury. Rather, the question was only as to the propriety of the proposed LRA. *See* Sec. D (1), *supra*.

Roush also cites *In re Det. of R.W.*, 98 Wn.App.140, 988 P.2d 1034 (1999) in support of his argument that Instruction No. 3 was an improper comment on the evidence. App. Br. at 17. There, the contested jury instruction contained language from the statute that the court determined was “a statement of legislative intent, used by the Legislature as a preface to an enactment,” and as such “lack[ed] operative force in itself[.]” 98 Wn. App. 140,145. Roush argues that certain language in RCW 71.09 to the effect that “[e]vidence of the prior commitment trial and disposition is admissible” (RCW 71.09.090(3)(d)) is “similarly lacking in operative force,” and hence renders Instruction No. 3 improper. App. Br. at 14-15.

Roush’s argument is not well taken. First, RCW 71.09.090(3)(d) is not a “statement of legislative intent,” but a statute regarding the admissibility of evidence at an LRA proceeding. Moreover, Roush does not suggest that he ever argued below that evidence of his prior commitment was not admissible, and in fact his proposed instruction explicitly referenced that fact. App. Br. at 10; CP at 742. *In re Det. of R.W.* is inapplicable to the facts of this case, and Roush’s argument fails.

Roush next argues that, by issuing Instruction No. 3, the trial court “commented directly upon [his] defense[.]” App. at 15. In other words, Roush argues that his “defense” to the State’s position that he should not


be released to an LRA was that he was no longer an SVP. As has been discussed above, this is not a cognizable “defense” in an LRA proceeding, nor does the record support this assertion. As such, his argument that this constitutes “a declaration that [his expert’s] testimony on issues *critical to the proceeding* was wrong as a matter of law” (emphasis added) fails. Not only was Roush’s continuing status as an SVP not an issue “critical to the proceeding”; it was not an issue at all. Moreover, as noted above, this argument directly conflicts with the position espoused by Roush at trial. *See* Sec. D (2), *supra*.

V. CONCLUSION

For the reasons set forth above, this Court should the trial court’s order.

RESPECTFULLY SUBMITTED this 22nd day of August, 2016.

ROBERT W. FERGUSON
Attorney General


SARAH SAPPINGTON, WSBA #14514
Senior Counsel

NO. 48150-2-II

WASHINGTON STATE COURT OF APPEALS, DIVISION II

In re the Detention of:

DALE ROUSH,

Appellant.

DECLARATION
OF SERVICE

I, Allison Martin, declare as follows:

On August 22, 2016, I sent via electronic mail, true and correct
cop(ies) of Respondent's Opening Brief and Declaration of Service,
addressed as follows:

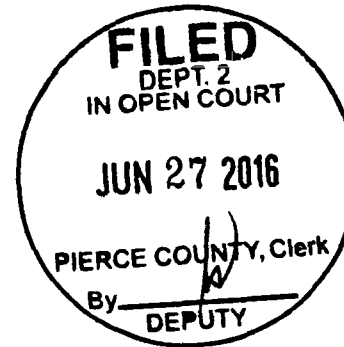
Mick Woynarowski wapofficemail@washapp.org

I declare under penalty of perjury under the laws of the State of
Washington that the foregoing is true and correct.

DATED this 22 day of August, 2016, at Seattle, Washington.


ALLISON MARTIN

ATTACHMENT A



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**STATE OF WASHINGTON
PIERCE COUNTY SUPERIOR COURT**

9 In re the Detention of:

NO. 02-2-08925-4

10 DALE ROUSH,

ORDER ON RELEASE TO LESS
RESTRICTIVE ALTERNATIVE

11 Respondent
12

13 THIS MATTER came before the Court on June 27, 2016, for entry of an Order
14 conditionally releasing the Respondent, DALE ROUSH, from total confinement to a Less
15 Restrictive Alternative (LRA). The Respondent appeared telephonically and was represented by
16 his attorney, KELSEY PAGE. The Petitioner, State of Washington, was represented by Assistant
17 Attorney General, FRED WIST. The Court having previously found the Respondent to be a
18 sexually violent predator pursuant to RCW 71.09 and having considered the Department of
19 Corrections (DOC) LRA investigation report dated June 10, 2016 and the files and records herein
20 hereby enters the following Findings of Fact, Conclusions of Law, and Order conditionally
21 releasing the Respondent to an LRA:

22 **FINDINGS OF FACT**

23 1. On October 25, 2002, after the initial commitment trial, a jury returned a verdict
24 that Dale Roush was a sexually violent predator (SVP) and the Court committed Mr. Roush to the
25 custody of the Department of Social and Health Services (DSHS) for placement at the Special
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1 Commitment Center (SCC) on McNeil Island for control, care, and treatment until further order of
2 the Court.¹

3 2. On October 12, 2015, after a trial on conditional release, a jury returned a verdict
4 that Roush's proposed less restrictive alternative placement in the community did not include
5 conditions that would adequately protect the community. The Court entered an Order denying
6 conditional release to LRA.

7 3. Mr. Roush has resided at the SCC since his civil commitment.

8 4. On February 29, 2016, DSHS submitted an annual review of Mr. Roush's mental
9 condition pursuant to RCW 71.09.70. In the annual review, the evaluator, Brendan R. McDonald,
10 Ph.D., opined that while Mr. Roush continues to meet criteria as a sexually violent predator,
11 conditional release to a less restrictive alternative placement in a highly secure community
12 facility, staffed with trained professionals who can provide 24-hour monitoring and support would
13 be in Mr. Roush's best interest and provide conditions adequate to protect the community.
14 A copy of the 2016 Annual Review is attached hereto as **Exhibit A**.

15 5. On February 29, 2016, the Chief Executive Officer (CEO) of the SCC authorized
16 Mr. Roush to petition this Court for release on an LRA at a Secure Community Transition Facility
17 (SCTF). *See* Notice of Authorization to Petition for Conditional Release, attached hereto as
18 **Exhibit B**.

19 6. The parties subsequently received information that the CEO authorized Mr. Roush
20 to reside in a transitional bed at the Secure Community Transition Facility in Pierce County
21 (SCTF-PC).

22 7. The parties have reached an agreement to release Mr. Roush on an LRA to the
23 SCTF-PC.

24
25 ¹ A copy of the Order of Commitment was filed with the Court on October 25, 2002 and is part of this
26 Court's file.

1 8. Mr. Roush will be treated in the community by Ms. Jeanglee Tracer, LICSW,
2 ACSW, a Certified Sex Offender Treatment Provider (SOTP), who is qualified to provide such
3 treatment in the State of Washington under RCW 18.155, as required by RCW 71.09.092(1).
4 Additionally, the Court finds that Ms. Tracer is qualified to provide treatment under
5 RCW 71.09.350. A copy of Ms. Tracer's curriculum vitae is attached hereto as **Exhibit C**.

6 9. Ms. Tracer has presented a specific course of treatment and has agreed to assume
7 responsibility for Mr. Roush's treatment and will report progress to the Court on a regular basis,
8 not less than monthly, and will report violations immediately to the Court, the Attorney General's
9 Office, Mr. Roush's attorney, the CEO of the SCC, and the supervising Community Corrections
10 Officer (CCO) as required by RCW 71.09.092(2) and RCW 71.09.096(5).

11 10. Mr. Roush has agreed to cooperate with Ms. Tracer and to comply with all
12 requirements imposed by Ms. Tracer, as set forth in the Community Treatment Plan, attached
13 hereto as **Exhibit D**, and the Sex Offender Treatment Program Contract, attached hereto as
14 **Exhibit E**. Mr. Roush has also agreed to comply with all conditions imposed by the Court, as set
15 forth in this order, as required by RCW 71.09.092(4). By signing the treatment documents and
16 LRA order, Mr. Roush is authorizing Ms. Tracer to disclose all treatment information to his CCO,
17 the SCC/SCTF, the Attorney General's Office, Mr. Roush's attorney, and the Court.

18 11. Housing for Mr. Roush exists that is sufficiently secure to protect the community
19 as required by RCW 71.09.092(3). Mr. Roush shall reside at a SCTF, a secure residential facility
20 in either King County or Pierce County, Washington, which is operated by DSHS.

21 12. The DSHS/SCTF has agreed to accept Mr. Roush, to provide the level of security
22 required by this Court, to immediately report to the Court, the Attorney General's Office,
23 Mr. Roush's attorney, supervising CCO, and the SCC CEO, if Mr. Roush leaves the housing to
24 which he has been assigned without authorization pursuant to RCW 71.09.092(3).
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1 The SCC/SCTF representative understands and agrees that any change of residence must have
2 prior written approval of the Court.

3 13. Based on this Court's Order from March 9, 2016, the Department of Corrections
4 (DOC) investigated the proposed LRA and made recommendations regarding conditions to this
5 Court. A true copy of the DOC investigation, dated June 10, 2016, is attached hereto as **Exhibit F**.
6 Pursuant to RCW 71.09.096(2) and RCW 71.09.096(4), the Court finds that the LRA conditions
7 included in this Order are necessary to ensure Mr. Roush's compliance with treatment and to
8 protect the community.

9 14. By signing this Order, Mr. Roush agrees to comply with any and all of the
10 supervision requirements imposed by DOC outlined in this Order, as required by
11 RCW 71.09.092(5).

12 15. A copy of this document and the exhibits attached hereto have been provided to
13 Mr. Roush and his attorney. Mr. Roush understands the English language and has the ability to
14 read and write. Mr. Roush's attorney, Kelsey Page, has reviewed this Order and the Exhibits with
15 him, and Mr. Roush has acknowledged understanding of the aforementioned documents.
16 By signing this document, Mr. Roush is indicating to this Court that he understands this document
17 and the attached exhibits and has no questions about any of the documents or conditions of
18 release. This Court finds that the Mr. Roush understands the release conditions and all aspects of
19 this Order.

20 CONCLUSIONS OF LAW

21 1. This Court has jurisdiction over the parties and over the subject matter herein.

22 2. Mr. Roush continues to meet criteria as a Sexually Violent Predator.

23 3. Conditional release to an LRA, as outlined in this Order, is in the best interest of
24 Mr. Roush and includes conditions that will adequately protect the community.
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1 The Court having entered the above Findings of Fact and Conclusions of Law, now,
2 therefore, enters the following:

3 **ORDER**

4 For the purposes of this Order and any subsequent modifications thereto, Mr. Roush's
5 Transition Team is defined as his sex offender treatment provider (SOTP), assigned CCO, and the
6 designated representative of the SCC.

7 During his conditional release, Mr. Roush shall always act in a manner that is consistent
8 with the goal of community safety and treatment for his sexual deviance. Mr. Roush shall
9 construe the Court's conditions in the broadest possible manner for these dual purposes.
10 If Mr. Roush is unsure whether his behavior is prohibited, he shall refrain from engaging in the
11 behavior until he obtains approval from the Transition Team.

12 **A. RESIDENTIAL CONDITIONS:**

13 1. Mr. Roush shall be conditionally released on July 27, 2016, or as soon thereafter
14 as reasonably possible, to a transitional bed at the SCTF-PC. He shall not change his residence
15 without further written Order from the Court and in compliance with RCW 71.09.140 for
16 notification to ensure safety to the community.

17 2. Mr. Roush shall register as a sex offender with the Pierce County Sheriff's
18 Office on the first day of his release and pursuant to RCW 9A.44.130 thereafter. Prior to this
19 release, Mr. Roush shall have DNA test results on file with the Washington State Patrol in
20 concurrence with RCW 43.43.754.

21 3. Mr. Roush shall not be at large alone in the community. He shall not leave the
22 confines of his residence except for activities pre-approved by the Court or his Transition
23 Team. During any such approved outing, he must be accompanied at all times and be under the
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1 direct supervision of an "approved monitoring adult"² who must supervise him closely and
2 maintain close proximity pursuant to RCW 71.09.305(1)(b). Staff employed by the
3 SCC/SCTF, the supervising CCO (or designee), and the designated SOTP are automatically
4 approved monitoring adults. Additional individuals may be designated as approved monitoring
5 adults by the Transition Team or by the Court. Any person agreeing to provide monitoring
6 services must immediately notify DSHS of any serious violation, as defined in
7 RCW 71.09.325, and must immediately notify law enforcement of any violation of law by
8 Mr. Roush. Such person(s) may be compelled to testify and any privilege with regard to such
9 person's testimony is deemed waived pursuant to RCW 71.09.096(3).

10 4. Mr. Roush shall abide by all rules, regulations, and policies of the Court, DOC,
11 SOTP, SCC/SCTF, including staff directives. The SCTF Handbook will be provided to and
12 signed by Mr. Roush upon his transfer to the facility, and a signed copy will be provided by
13 SCTF staff to his Transition Team.

14 5. The SCC/SCTF shall immediately notify law enforcement, the Court, the
15 Attorney General's Office, Mr. Roush's attorney, the CCO, and the SCC Chief Executive
16 Officer (CEO) if Mr. Roush leaves the SCTF without authorization or violates any of the
17 conditions of this Court Order.

18 **B. SUPERVISION CONDITIONS:**

19 1. The Department of Corrections shall supervise Mr. Roush. Mr. Roush will
20 initially report to the supervising CCO on the day of his conditional release from the SCC, and
21 weekly or as otherwise directed thereafter.

22 2. Mr. Roush will comply with all DOC verbal and written instructions.
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25 ² An "approved monitoring adult" is a person designated to monitor Mr. Roush when he leaves his
26 residence. The Transition Team must approve this person in writing. The person must have complete knowledge
of Mr. Roush's offense cycle and history of sexual offending.

1 3. The assigned CCO shall report to the Court, Assistant Attorney General,
2 Mr. Roush's attorney, SCC representative, SCC CEO, and SOTP any violations of
3 Mr. Roush's Court Order. The CCO shall notify the Attorney General's Office by email at the
4 following email address: CRJSVPEF@atg.wa.gov. Copies shall be emailed to Mr. Roush's
5 attorney at the following email address: kpage@co.pierce.wa.us, pbanken@co.pierce.wa.us,
6 and mbenton@co.pierce.wa.us.

7 4. Pursuant to RCW 71.09.098, if the assigned CCO reasonably believes that
8 Mr. Roush is not complying with the terms and conditions of his conditional release order, the
9 CCO may order that he be taken into custody until such time as a hearing can be scheduled to
10 determine the facts and whether Mr. Roush's LRA should be revoked or modified. The Court,
11 Attorney General's Office, and Mr. Roush's attorney shall be notified before the close of the
12 next judicial day of Mr. Roush's detention.

13 5. Mr. Roush will submit a travel request log to the SCTF scheduler at least one
14 week in advance of proposed travel. The travel log will include the date, time, and any contacts
15 he may have during each proposed outing.

16 C. **TREATMENT CONDITIONS:**

17 1. Mr. Roush shall engage in sex offender treatment with Ms. Jeanglee Tracer,
18 a certified SOTP. Mr. Roush shall not change treatment providers without permission of the
19 Court.

20 2. Mr. Roush shall sign and comply with Ms. Tracer's community treatment plan
21 and Treatment Agreement for him, both written and verbal.³ Any proposed modification of the
22 community treatment plan or treatment agreement must be provided to the other Transition
23 Team members. If the members of the Transition Team disagree on a proposed modification,
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25 ³ The community treatment plan and treatment sex offender program contract are attached as Exhibits D
26 and E.

1 the Court shall decide the matter. Mr. Roush must sign any modified treatment plan and
2 treatment agreement, and the SOTP must immediately provide a signed copy to the SCC, the
3 Attorney General's Office, Mr. Roush's attorney, and the CCO.

4 3. Mr. Roush shall participate in any treatment, including but not limited to sex
5 offender treatment, chemical dependency treatment, Alcoholics/Narcotics Anonymous, couples
6 counseling, and any other treatment or therapy as recommended by the Transition Team and
7 approved by DSHS.

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9 4. Ms. Tracer shall submit a written report to the Court each month addressing
10 Mr. Roush's treatment progress and compliance with the Court Order, with copies to the
11 Attorney General's Office, Mr. Roush's attorney, and each member of the Transition Team.
12 Copies to the Attorney General's Office shall be sent by email to the following email address:
13 CRJSVPEF@atg.wa.gov. Copies to Mr. Roush's attorney shall be sent by email to the
14 following email address: kpage@co.pierce.wa.us, pbanken@co.pierce.wa.us, and
15 mbenton@co.pierce.wa.us.

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17 5. Ms. Tracer will immediately report any violations or possible violations of this
18 Court Order or treatment condition to the Court, the Attorney General's Office, Mr. Roush's
19 attorney, CCO, SCC representative, and SCC CEO.

20 6. If Mr. Roush is terminated from treatment with Ms. Tracer, he shall, consistent
21 with RCW 71.09.098(2), immediately be taken into custody and a hearing will be scheduled to
22 determine whether his LRA will be revoked or modified pursuant to RCW 71.09.098(3).

23 7. If Ms. Tracer decides to discontinue treatment for any reason other than
24 non-compliance or lack of progress, he must give forty-five (45) days written notice to the Court,
25 the Attorney General's Office, Mr. Roush's attorney, CCO, SCC representative, and SCC CEO.
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1 Treatment with this provider shall continue until such time that the Court may conduct a hearing
2 to consider approval of an alternative provider pursuant to RCW 71.09.092.

3 **D. STANDARD CONDITIONS:**

4 1. Mr. Roush shall comply with all verbal and written instructions of the Court, his
5 SOTP, DOC, and SCC/SCTF representatives.

6 2. Mr. Roush shall be subject to electronic home monitoring at all times, as required
7 under RCW 71.09.305(1)(a). The electronic monitoring devices shall employ global positioning
8 system (GPS) technology and/or such monitoring devices as may become technologically
9 advanced.

10 3. Mr. Roush shall obtain approval from the Transition Team prior to acquiring or
11 participating in employment, educational, social, or volunteer opportunities in the community.

12 4. Mr. Roush shall have no intentional direct or indirect contact with any prior
13 victims or their families without the express written consent of the Court. For purposes of this
14 condition, "victim" is defined as anyone with whom Mr. Roush has had unwanted or illegal
15 sexual contact in the past, regardless of whether the contact resulted in a conviction or legal
16 action. The Transition Team will resolve any questions as to what constitutes a "victim."
17 If there is a question as to whether an individual is a prior victim, Mr. Roush shall have no
18 contact with that individual.

19 5. Mr. Roush shall not have intentional direct or indirect contact with minor
20 children under the age of eighteen (18) without the express written consent of the Court, and
21 then only in the presence of an approved adult monitor.

22 6. Mr. Roush shall not frequent or loiter outside of establishments that cater
23 primarily to minors without the express written permission of the Transition Team and then
24 only in the presence of an approved adult monitor. For purposes of this condition,
25 establishments that cater primarily to minors include the following: elementary, junior high, or
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1 high schools, daycares, parks, recreation areas, playgrounds, school bus stops, swimming
2 pools, zoos, and arcades. The Transition Team may modify this condition in the Transition
3 Team determines that a specific proposed establishment does not cater primarily to minors and
4 is an appropriate location for Mr. Roush to visit.

5 7. Mr. Roush shall not have intentional regular contact with any individual who has
6 not previously been approved by his Transition Team. This condition does not affect the ability
7 SCC/SCTF representative, DOC representatives, treatment providers, attorneys, or other members
8 of his legal team to be assigned to his case.

9 8. Mr. Roush shall not initiate or engage in a physical or romantic relationship with
10 another person without the express written approval of his Transition Team. Any such
11 relationship will require the individual's consent.

12 9. Mr. Roush is prohibited from having contact with known convicted felons or
13 persons with any type of sex crime conviction, with the exception of individuals also
14 participating in his treatment groups or other mandatory activities or residing at the SCTF. The
15 Transition Team may review and modify this condition in writing with respect to specific
16 individuals.

17 10. Mr. Roush shall not own, possess, receive, ship, or transport any firearm,
18 ammunition, incendiary device, or explosive, nor shall he have any parts thereof.

19 11. Mr. Roush shall not purchase, possess, or view any pornographic materials, as
20 defined by his SOTP, including but not limited to materials depicting consensual sex, sex with
21 violence or force, sex with non-consenting adults, or sexual activity with children. The SOTP
22 may make exceptions to specifically identified pornographic materials upon written
23 notification to the other members of the Transition Team. However, Mr. Roush shall not share
24 such approved materials with any other SCC/SCTF residents.
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1 12. Mr. Roush shall not purchase, possess, or view movies, or play video games,
2 depicting sexual themes, children's themes, or excessive violence or any R-rated movies or
3 M-rated video games. The Transition Team will resolve any questions as to what constitutes
4 sexual themes, children's themes, or excessive violence.

5 13. Mr. Roush shall not use or have access to the internet, including via computer,
6 cellular telephone, iPad, tablet, game console, or any other computer modem or communications
7 software without the prior written permission of the Transition Team or the Court. If Mr. Roush
8 is granted permission to use or possess the above noted devices, the Transition Team or the Court
9 may, at its discretion, impose limitations and controls over the use of these devices. Mr. Roush
10 shall not possess a personal computer in his room at the SCTF without prior approval of the
11 Transition Team or the Court. Mr. Roush shall abide by any computer usage safety plan
12 approved by his Transition Team for all computer use.

13 14. Mr. Roush shall not enter into nor loiter outside of any adult entertainment
14 center where nudity, erotic entertainment or erotic literature/magazines are the primary service
15 or commodity for sale.

16 15. Mr. Roush shall not purchase, possess, or consume alcohol, marijuana/THC, or
17 any controlled substances, except pursuant to a lawfully issued prescription made out for him
18 by a licensed physician. Mr. Roush shall immediately provide written verification of any
19 prescription medication to the Transition Team.

20 16. Mr. Roush shall submit to drug screens, Breathalyzer alcohol assessments, or
21 other methods of detecting the use of or presence of alcohol, marijuana/THC, and controlled
22 substances at the discretion of any member of the Transition Team.

23 17. Mr. Roush shall abide by any medications/therapy prescribed by his medical
24 and psychological treatment providers.
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1 18. Mr. Roush shall not frequent bars, taverns, casinos, or any establishment where
2 the primary commodity for sale is alcoholic beverages or marijuana/THC.

3 19. Mr. Roush shall obey all state, county, federal, tribal, and municipal laws.

4 20. Mr. Roush shall not leave the State of Washington without an Order from the
5 Court.

6 21. Mr. Roush shall not leave his county of residence without the prior written
7 approval from his Transition Team and written authorization from his CCO.

8 22. To maintain compliance with the conditions of the LRA Court Order,
9 Mr. Roush shall submit to searches of his person, computer, residence, or property at the
10 discretion of any member of his Transition Team. SCTF staff is permitted to conduct
11 authorized searches of Mr. Roush's residence to ensure the safety and smooth operation of the
12 facility.

13 23. Mr. Roush shall participate in periodic polygraph testing at the discretion of any
14 member of the Transition Team. Polygraph assessments can assess sex offender specific
15 compliance issues or any other general compliance issues. Mr. Roush shall submit to
16 plethysmograph assessment at the discretion of the SOTP.

17 24. Mr. Roush shall make no effort to thwart, disable, or limit the effectiveness of
18 any monitoring mechanism imposed upon him, including but not limited to polygraphs,
19 plethysmographs, GPS, and other forms of electronic monitoring. Mr. Roush shall strictly
20 comply with all monitoring protocols required. Mr. Roush shall be required to pay for any
21 damages to monitoring equipment that is caused by negligent actions on his part.

22 25. Mr. Roush shall not drive any motor vehicle or possess a driver's license
23 without the prior written permission of his Transition Team. In the event that Mr. Roush
24 obtains a legal Washington State driver's license, he shall provide proof of valid insurance, as
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1 well as the make, model, and year of any vehicle he drives. Mr. Roush shall not provide rides
2 to anyone without permission from his Transition Team.

3 26. Mr. Roush shall report the make, model, and year of any private vehicle he rides
4 in, as well as the driver's contact information, to the Transition team prior to riding in the
5 vehicle.

6 27. Mr. Roush shall make regular monetary payments toward any outstanding
7 court-ordered Legal Financial Obligations (LFOs) or any other financial commitments. Any
8 such payments shall be made from Mr. Roush's private funds.

9 28. Mr. Roush must provide a copy of his monthly bank and/or credit card
10 statements to the Transition Team upon request.

11 29. Mr. Roush shall maintain an accurate phone log of his phone calls he makes or
12 receives and provide a copy to the Transition Team upon request.

13 30. DSHS shall be responsible for treatment costs pursuant to RCW 71.09.110.
14 DSHS may obtain reimbursement for the cost of care and treatment pursuant to
15 RCW 71.09.110 and the applicable Washington Administrative Code.

16 31. If Mr. Roush is not in compliance with the terms and conditions of his LRA
17 Order, he may, consistent with RCW 71.09.098(2), immediately be apprehended and taken into
18 custody until such time as a hearing can be scheduled to determine the facts and whether or not
19 the conditional release should be revoked or modified. The revocation or modification hearing
20 shall be scheduled immediately with the Court pursuant to RCW 71.09.098.

21 32. Law enforcement and/or peace officers are authorized to arrest Mr. Roush for
22 any violation of the LRA Order as described in RCW 71.09.098.

23 33. Mr. Roush shall comply with all provisions of the LRA Order and any
24 subsequent modifications thereof. Mr. Roush shall immediately notify his treatment provider,
25
26

1 his CCO, and SCC representative if he has violated, or arguably violated, any provision of the
2 LRA Order.

3 34. The conditions required of Mr. Roush by his Transition Team and imposed
4 upon Mr. Roush by this Court, should, where possible, be read together and in harmony with
5 one another. However, there may be a situation in which they conflict. If this occurs, the
6 SOTP, CCO, and SCC/SCTF representative shall consult with one another to resolve the
7 conflict. If the Transition Team is unable to resolve the conflict, the Court will determine the
8 matter. Until such time as any conflict is determined, Mr. Roush shall follow the strictest rule
9 applicable, consistent with ensuring public safety.

10 E. SPECIAL CONDITIONS:

11 1. Mr. Roush shall not hold any position of authority or trust involving children
12 under the age of eighteen (18), and shall not supervise or participate in any program that
13 includes anyone who is under the age of eighteen (18).

14 2. Mr. Roush shall not possess images of children or view media directed towards
15 or focused on children without the prior consent of his Transition Team. Possession of visual
16 depictions of semi-clad or naked children is prohibited.

17 3. Mr. Roush shall not access premium cable television channels without the prior
18 written approval of his Transition Team.

19 4. The SCC shall provide a list of all approved media (books, movies, video
20 games, CDs, etc.) to the assigned CCO upon Mr. Roush's release from the SCC. Any
21 additional media must be pre-approved by the Transition Team prior to purchase, rental, and/or
22 possession.

23 5. Mr. Roush shall not possess a police scanner or short wave device.

24 6. Unless otherwise authorized by the Transition Team, Mr. Roush shall only use
25 solo occupant restrooms when out in the community and shall not enter any multi occupant
26

1 public washroom or other rest facility that has not been checked for the presence of minor
2 children and found to be free of minors by an approved monitoring adult immediately prior to
3 his entering the facility.

4 7. Mr. Roush shall not purchase or possess items meant for children, including but
5 not limited to, clothing arcade tokens, movies, games, and toys.

6
7 DATED this 27th day of June, 2016.

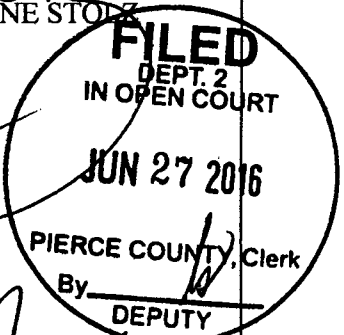
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9
10 THE HONORABLE KATHERINE STOK
11 Judge of the Superior Court

12 Presented by:

13 ROBERT W. FERGUSON

14
15
16 FRED WIST, WSBA #23057
17 Assistant Attorney General
18 Attorneys for Petitioner

19
20
21 KELSEY PAGE, WSBA #39292
22 Attorney for Respondent



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26
CERTIFICATION OF DALE ROUSH

21 I agree to abide by the terms and conditions of this LRA Order. I have reviewed this
22 Order with my attorney and have no unanswered questions.

23 Dated this 24 day of June, 2016.

24
25
26 DALE ROUSH
RESPONDENT

EXHIBIT A



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

SPECIAL COMMITMENT CENTER
P.O. Box 88450 • Steilacoom, Washington 98388

February 29, 2016

Pierce County Superior Court
ATTN: Court Clerk's Office
930 Tacoma Ave S RM 110
Tacoma, WA 98402-2177

RE: Dale Roush – Annual Review
Pierce County Superior Court Cause #02-2-08925-4

Dear Pierce County Superior Court Clerk:

Please accept the enclosed annual review of Mr. Roush for filing with the Court. Per RCW 71.09.070, annual examinations are required of persons committed as sexually violent predators. The Waiver of Rights form presented to Mr. Roush concerning his rights to petition the court for release is included.

Please feel free to contact me at (253) 583-5936 if you have any questions.

Sincerely,

Steve Marquez, Ph.D.
Chief of Forensic Services
DSHS – Special Commitment Center

cc: The Honorable Katherine Stolz
Mary Robnett, Prosecuting Attorney
Kelsey Page, Defense Counsel
Dale Roush, Resident

Declaration of Brendan R. McDonald, Ph.D.

I, Brendan R. McDonald, Ph.D., declare as follows:

1. I am a Psychologist in the State of Washington, employed by the Washington State Department of Social and Health Services, Special Commitment Center.
2. Attached is a true and accurate copy of a report dated 10/30/2015, which I have written regarding Mr. Dale Roush.
3. In preparing this report, I reviewed Mr. Roush's SCC file which contains his treatment plan, prior psychological evaluations, progress notes, behavioral management reports, and incident reports. In addition, staff members familiar with Mr. Roush were contacted or their notes reviewed. I also had personal contact with Mr. Roush on 10/15/15.
4. The documents and procedures I relied upon in completing this evaluation are those reasonably relied upon by psychologists completing forensic evaluations.
5. I hold the opinions contained in this report to a reasonable degree of psychological certainty.
6. A true and accurate copy of my curriculum vitae is appended hereto.

I declare, under penalty of perjury governed by the laws of the State of Washington, that this report is true and accurate to the best of my knowledge.

DATED this 30th day of October, 2015, at Steilacoom, Washington.



***Brendan R. McDonald, Ph.D.
Washington State Licensed Psychologist
Forensic Services Department
Special Commitment Center***

**SPECIAL COMMITMENT CENTER
SEXUALLY VIOLENT PREDATOR
ANNUAL REVIEW**

(October 2014 through September 2015)

Name: **Dale E. Roush**
Date of Birth: 11/06/55
Jurisdiction: Pierce County Superior Court
Cause No.: 02-08925-4
Commitment Date: 10/25/02
Evaluator: Brendan McDonald, Ph.D.
Date of report: 10/30/15

REFERRAL INFORMATION

Mr. Dale Roush is a 59-year-old Caucasian man whose history includes recurrent sexually coercive and violent offenses against adolescent and adult males with whom he had no meaningful prior relationship. On 10/25/02, the Pierce County Superior Court of the State of Washington determined Mr. Roush to be a sexually violent predator as defined in the Revised Code of Washington (RCW) 71.09.020(18), and, in accordance with RCW 71.09.060(1), ordered him committed to the custody of the Department of Social and Health Services (DSHS). He was placed at the Special Commitment Center (SCC) for control, care, and treatment. According to RCW Chapter 71.09, his commitment to the SCC is to continue until it is adjudicated that he no longer meets the definition of a sexually violent predator, or that conditional release to a less restrictive alternative, as set forth in RCW 71.09.092, is determined to be in his best interest and conditions can be imposed that would adequately protect the community.

RCW 71.09.070 requires that residents committed under this statute have a current examination of their mental condition at least once every year. Pursuant to RCW 71.09.070, the purpose of this evaluation is to examine Mr. Roush's mental condition and report the findings to the Court. As required by statute, this report includes consideration of whether: (1) Mr. Roush currently suffers from a mental abnormality or personality disorder which makes him likely to engage in predatory acts of sexual violence if not confined in a secure facility; (2) conditional release to an LRA is in his best interest; and (3) conditions can be imposed that would adequately protect the community.

NATURE OF THE EVALUATION

At the SCC, the annual review of a resident's treatment progress is a multidisciplinary process in which information is synthesized from various data sources. Given the nature of the referral questions, primary emphasis is placed on documentation generated during the current review period. However, historical records are routinely reviewed, especially previous evaluations conducted pursuant to RCW 71.09. Documentation of the extent and quality of the resident's involvement in sex offender-specific treatment, adjunctive treatment activities, and extracurricular activities is analyzed. The resident's institutional behavior and adjustment is also examined, and SCC staff members are consulted regarding the resident's progress. Additionally, the resident is given the opportunity to participate in an interview to assess his mental status and

discuss his progress in treatment. As needed, psychological and / or physiological testing is requested to address specific areas of functioning.

NOTIFICATION

Mr. Roush agreed to interview for this evaluation during a 10/13/15 telephone contact. The interview took place in a private interview room in the SCC's visitor's center on 10/15/15. Per Mr. Roush's request, the meeting was audio recorded. The meeting lasted approximately 1 hour and 45 minutes and consisted of a mental status examination and forensic interview. Prior to commencing examination procedures, I informed Mr. Roush of the purpose of and authority for the evaluation. I notified him of his right to refuse to answer questions and to terminate the interview at any time. Finally, I reviewed the limits of confidentiality inherent in forensic evaluations, and discussed the generation and distribution of the forensic report. I also gave him the opportunity to ask questions. Mr. Roush evidenced an understanding of the foregoing and agreed to participate.

RELEVANT BACKGROUND

Relevant background information was gathered from various clinical and legal documents found in Mr. Roush's file. Reviewing records to obtain historical information is an accepted standard of practice among mental health professionals. Please note information compiled in records often comes from a variety of sources, which may occasionally contain inaccurate and contradictory information. The background information presented in this report is not intended to be represented as fact. Rather, it is meant to apprise the reader of the information which was available to me, and to indicate my understanding of Mr. Roush's history. If information in this report is found to be inaccurate, it can be amended in subsequent reports.

Mr. Roush's developmental, educational, vocational, sexual, legal, and mental health history is presented in the Appendix beginning on page 24 of this report. Readers who are unfamiliar with Mr. Roush's history are encouraged to review the Appendix prior to reading information pertaining to the current review period. For the reader's convenience, Mr. Roush's sexual offense history and procedural history is summarized in the paragraphs below.

A clinical summary report from the Child Study and Treatment Center (Bates Stamp 0038-0041) indicated Mr. Roush was referred to the King County Juvenile Court multiple times for allegedly committing indecent liberties against 9- and 10-year-old boys in separate incidents between the years of 1969 and 1971. Reportedly, Mr. Roush struck one victim when he called for help, and threatened another victim with a knife during the commission of these offenses. Apparently Mr. Roush did not incur formal charges or convictions for these alleged crimes.

Mr. Roush was charged with Assault in the First Degree while Armed with a Deadly Weapon following an incident occurring on 01/12/78 in which attempted to rape a 15-year-old male hitchhiker. Reportedly, after picking up the hitchhiker, Mr. Roush held a pellet gun to his head, ordered him to undress, and demanded that he submit to various sexual acts. The victim was able to escape by jumping from the moving vehicle. On 02/09/78, Mr. Roush pled guilty to an amended charge of Assault in the First Degree. He received a 10-year suspended sentence pending the completion of probation, including evaluation and treatment at the sexual psychopathy program at Western State Hospital (WSH). Mr. Roush was ultimately determined to

be unamenable to treatment and the Court revoked his suspended sentence on 07/25/78. He was ordered to serve a maximum term of 20 years confinement in the Washington Department of Corrections (DOC). He was paroled on 05/11/83.

On 06/06/84, Mr. Roush was charged with Unlawful Imprisonment, Assault in the First Degree, and Robbery in the First Degree following an incident on 03/30/84 in which he abducted and sexually assaulted an 18-year-old male hitchhiker. Reportedly, Mr. Roush drove his vehicle into a remote area, lured the victim out of the vehicle, threatened him at knifepoint, bound his hands behind his back, undressed him, and attempted to force him to submit to anal and oral intercourse. He also fondled the victim's penis. The victim resisted the assault and eventually Mr. Roush drove away, leaving the victim and his clothes behind. Mr. Roush was found guilty of Robbery in the First Degree and was sentenced to a maximum term of 20 years confinement in the DOC. This offense also constituted a parole violation. Mr. Roush was paroled on 10/19/88.

Mr. Roush was charged with Rape in the First Degree following an incident on 06/17/89 in which he sexually assaulted an 18-year-old male acquaintance. Reportedly, Mr. Roush lured the victim into a remote area, threatened him at knifepoint, handcuffed and disrobed him, and proceeded to force oral copulation and anal intercourse. He was convicted and sentenced to 126 months imprisonment.

Prior to his release from the DOC, Mr. Roush was referred for an evaluation for civil commitment as a sexually violent predator pursuant to RCW 71.09. He was admitted to the SCC on 07/23/02 pending further legal proceedings. The state's expert was Amy Phenix, Ph.D. In her 09/11/02 sexually violent predator evaluation report, Dr. Phenix opined Mr. Roush met criteria for civil commitment under RCW 71.09. His commitment was ordered on 10/25/02.

Mr. Roush was granted a jury trial, which took place in September and October of 2015, to determine whether conditional release to an LRA is in his best interest and conditions can be imposed which would adequately protect the community. The jury rendered a verdict that Mr. Roush's proposed LRA did not include conditions which would adequately protect the public. On 10/12/15, the Pierce County Superior Court issued an order denying Mr. Roush's petition for conditional release. He remains at the SCC's total confinement facility at the current time.

PROGRESS DURING THE CURRENT REVIEW PERIOD

Information from this section was gathered from Mr. Roush's SCC file, to include progress notes (PN), clinical treatment plans, observation reports (OR), behavioral management reports (BMR), incident reports (IR), resident job performance reports, room inspection check sheets, and medical / psychiatric records generated during the current review period (documentation was submitted as of 09/04/15). Where noted, information was also gleaned from collateral contacts with SCC staff.

Residential Functioning

For the duration of this review period, Mr. Roush resided in Redwood West, a low management housing unit. Reports submitted by residential rehabilitation counselors (RRCs) indicated Mr. Roush was well behaved and consistently adhered to rules and policies. He passed his weekly

room inspections on a regular basis. As in previous review periods, he maintained a privilege level 5, the maximum achievable by residents at the SCC.

Reports from RRCs indicated Mr. Roush's typical daily routine consisted of reporting to his job at the SCC dining facility, attending treatment groups, and occasionally spending time in the yard, residential unit dayroom, and smoking pad. The majority of documentation described Mr. Roush as a "quiet" individual who tended to keep to himself (OR 03/10/15, 04/01/15, 05/18/15). RRCs commented that he spent most of his time in his room playing video games, watching television, or napping. It was noted that although he seldom interacted with others, he maintained positive rapport with staff and peers (OR 03/10/15, 03/31/15, 04/01/15, 04/14/15). Interpersonally, he was described as calm, cordial, respectful, and polite.

Behavioral Incidents

Incidents at the SCC are most often documented with an OR or PN. However, if there is a more notable event, an IR may be generated. If the incident is specifically problematic, it will typically result in a BMR. Category-1 BMRs are issued for serious offenses (e.g., physical altercations or sexual contact with other residents), whereas Category-2 BMRs are issued for less serious offenses. An administrative review hearing may be held to investigate an incident or clarify sanctions against a resident who receives a Category-1 BMR. Residents also have the opportunity to file grievances and / or abuse complaints against SCC staff and / or policies. For the purposes of this evaluation, all of these sources of documentation were reviewed for the time period under consideration.

There is no record of adverse incident reports or BMRs issued to Mr. Roush, or grievances filed on his behalf, during the current review period.

Institutional Employment

Residents at the SCC are eligible for paid employment if they complete a required industrial safety course offered through the SCC's vocational department. Their work is periodically evaluated by supervising staff, and they receive regular job performance reports. According to residential records, Mr. Roush maintained his employment position as a cook in the SCC dining facility. His most current job performance report (09/01/14) was very positive. In my review of available documentation, I did not locate any job performance reports submitted during the current review period.

Medical and Psychiatric Treatment

Mr. Roush is 5'8" tall and was recently measured at 195 pounds (01/22/15). Records indicate his medical history is significant for dyslipidemia, hypertension, gastroesophageal reflux disease (GERD), neck and back pain, tobacco use, and a childhood heel injury. During the course of this review period, Mr. Roush was prescribed pravastatin and fish oil supplements for dyslipidemia, enalapril and metoprolol for hypertension, and ranitidine for GERD. It does not appear he had significant medical needs, and there is no indication he received psychiatric services.

Sex Offender-Specific Treatment

Mr. Roush has been active in the SCC's sex offender treatment program since his admission to the facility in 2002. He transitioned to phase 3 (of 5) in 2005 and he has not yet completed

requirements to advance further. Typically, residents in Phase 3 are committed to participating in treatment; have gained some insight into the thoughts, feelings and behaviors that led to previous offending; and are preparing to make the changes necessary to reduce their risk for committing future offenses. For the duration of the current review period, Mr. Roush participated in a *core* sex offender-specific group. Additionally, he met regularly with a case manager for individual guidance on progressing through the treatment program.

Case Management

A review of PNs submitted during the current review period indicated Mr. Roush met with a case manager on approximately a monthly basis. The majority of these contacts were with Jennifer Arsanto, M.Ed. It appears Mr. Roush made appropriate use of his time during these sessions. He occasionally discussed peripheral matters such as his health functioning, leisure activities, employment, and preparation for his LRA trial. However, it seems the majority of his time in case management sessions was devoted to discussion of his treatment goals, motivation, sexual functioning, and completion of treatment assignments. On occasion, he brought copies of his assignments into case management meetings and requested feedback.

Under the guidance of his case manager, Mr. Roush reflected on elements of his offense cycle (e.g., anger, revenge, aggression) and pertinent *dynamic risk factors* such as deviant sexual interests (e.g., arousal to force, selecting teenage victims), sexual preoccupation (e.g., cruising for prostitutes), lack of concern for others, negative emotionality / hostility, and offense-supportive cognitions / attitudes. He discussed some difficulties in treatment (e.g., fear of disclosures being used against him, issues from the past "coming up," nervousness while presenting assignments, avoidance coping); however, he also commented on his gradually improving motivation and accountability. He was given positive feedback from his case managers. For example, in a 04/29/15 PN, Ms. Arsanto commented "this was the most treatment focused he had been in case management in a while."

Core Group

Mr. Roush's participation in core group was consistently described as "active." It was noted that he provided self-relevant feedback (e.g., PN 10/30/14, 12/11/14), and he discussed benefitting by hearing other group members' presentations and feedback (PN 12/02/14, 02/05/15). Mr. Roush presented multiple versions of his Treatment Needs and Interventions assignment, participated in a genogram activity, and periodically provided his "mini disclosure" which included sufficient detail regarding his offenses. Occasionally, Mr. Roush was challenged regarding his use of "tactics," which included being deliberately vague, pointing out others faults, omitting facts, not paying attention, and minimizing his behavior (PN 02/19/15, 04/09/15, 04/16/15, 04/28/15, 06/25/15).

During group, Mr. Roush shared his efforts to monitor and control his negative emotionality, particularly following frustrating interactions with peers. He expressed his tendency to ruminate on thoughts of "case building" or planning / enacting revenge on others whom he perceived had wronged him (PN 10/02/14, 10/23/14, 02/19/15, 05/12/15). He discussed various positive and negative events which triggered urges to sexually cope (i.e., masturbate or seek sexual activity with a peer); however, he indicated he was able to successfully intervene rather than indulging these urges (PN 01/25/15, 02/10/15, 04/07/15, 04/21/15, 04/30/15). Reportedly, his intervention

strategies included avoidance of sexually arousing stimuli, including residents to whom he felt attracted (PN 01/20/15), distracting himself with other activities, and seeking support from peers.

During the course of treatment, Mr. Roush reflected on historical factors which were relevant to his offending cycle. Examples included feelings of anger and resentment for having been victimized sexually (PN 11/06/14, 01/15/15, 01/27/15, 02/05/15), using pornography (PN 09/30/14, 02/10/15), soliciting prostitutes (PN 03/03/15, 04/07/15), engaging in indiscriminate sexual activity with casual partners (PN 11/13/14), and alcohol abuse (PN 12/09/14). He reflected on various dynamic risk factors, including negative emotionality, lack of concern for others, sexual preoccupation, rape attitudes, and deviant sexual interests. For example, while presenting his Treatment Needs and Interventions assignment using the risk factor deviant sexual interests, group members assisted Mr. Roush with recognizing his arousal to exerting power and control over, and humiliating, his victims. With prompting, Mr. Roush also acknowledged a history of sexually arousing fantasies involving violence and coercion (PN 02/19/15).

As is the norm for sex offender-specific treatment groups, Mr. Roush was regularly prompted to disclose his sexual arousal, fantasies, and masturbation to the group. Based on my review of PNs submitted during this review period, it does not appear Mr. Roush endorsed any sexually deviant ideation or masturbation during group check-ins. In fact, despite reporting urges to masturbate as previously discussed, it appears he did not disclose any masturbatory behavior over the past year.

Mr. Roush's most recent treatment plan was dated 01/30/15 and authored by Ms. Arsanto. It lists sexualized coping, deviant sexual interests, rape attitudes, and negative emotionality / hostility as dynamic risk factors which continue to warrant attention in treatment. Regarding responsivity issues, the following was written regarding Mr. Roush's motivation and treatment readiness:

"Over this review period Mr. Roush has presented one treatment need from the assignment Treatment Needs and Interventions. He has stated during case management creating relapse prevention assignments for his attorney, outside provider and / or social worker. His focus is currently how he would have reacted historically to situations. For example he will state in the past I would have hit the guys or in the past I would have sexually coped. Mr. Roush has not reported whether or not he experienced fantasy, arousal, or masturbation in over [sic] the last review period. Should Mr. Roush continue to focus on how he would have reacted rather than his actions in the here and now, continue to complete bluebook assignments at the same pace, and not report arousal it could impede him from positively responding to treatment."

Regarding phase advancement and discharge planning, the following was written:

"Mr. Roush is currently a phase 3 privilege level 5. Mr. Roush earned his phase 3 in 2005 and has not completed the requirements for the next treatment phase. Mr. Roush needs to revise and / or complete and present his Offense Cycle assignments, Treatment Needs and Interventions, and My Thinking assignments. Mr. Roush will also need to consistently journal including thoughts and feelings as laid out by the revised blue book. Mr. Roush will also need to start an arousal / fantasy / masturbation log. Mr. Roush will need to show behavioral evidence of cooperation and transparency, as well as, management of obstructing attitudes and behaviors."

Psychological Evaluations

During the course of this review period, Mr. Roush underwent psychological evaluations by two experts in preparation for his LRA trial proceedings. Luis Rosell, Psy.D., forensic expert retained by defense counsel, submitted updated sexual violent predator evaluations on 01/24/15 and 07/15/15. In his 07/15/15 report, Dr. Rosell refuted Mr. Roush's diagnosis of other specified paraphilic disorder, nonconsent on the grounds that it is a controversial diagnosis among experts in the field and was not accepted for inclusion in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)*.¹ He agreed that Mr. Roush meets criteria for antisocial personality disorder, by history. Regarding Mr. Roush's risk, Dr. Rosell reported the following:

"In summary, with regard to his risk, the report has listed numerous risk percentages that could be applied to Mr. Roush given his age and score on the actuarials. Based on his current status, the risk percentage is much lower than the statutory threshold regardless of what study or interpretation of the instrument is utilized."

Regarding Mr. Roush's suitability for release to an LRA, Dr. Rosell opined the following:

"As in my previous reports, in my opinion, Mr. Roush has made substantial progress and his condition has so changed that a release to a proposed less restrictive alternative would be in Mr. Roush's best interest and conditions could be imposed that would adequately protect the community."

Amy Phenix, Ph.D. was the State's expert and she submitted an updated evaluation on 08/06/15. Consistent with her previous report regarding Mr. Roush, Dr. Phenix provided DSM-5 diagnoses of other specified paraphilic disorder, non-consent, and antisocial personality disorder, which she opined constitute mental abnormalities as defined in RCW 71.09. Regarding his status as a sexually violent predator, Dr. Phenix reported the following:

"I opine that Mr. Roush continues to meet the criteria as a sexually violent predator. His mental abnormality, personality disorder and psychological risk factors described above impair his ability to control his behavior and render him likely to engage in predatory acts of sexual violence if not confined to a secure facility."

Regarding his suitability for an LRA, Dr. Phenix opined the following:

"Mr. Roush would likely transition to a Less Restrictive Alternative (LRA) in the community. It is my opinion that he has not yet progressed sufficiently in treatment to warrant an LRA. There are important treatment assignments Mr. Roush has not completed. Additionally he does not have a comprehensive relapse prevention plan for release. I recommend that he remain in the SCC, a secure facility at the current time. Therefore, I do not believe his conditional release to an LRA is in his best interest and conditions cannot be imposed that adequately protect the community."

¹ American Psychiatric Association. (2013). *Diagnostic and Statistical Manual of Mental Disorders* (5th Ed.). Arlington, VA: American Psychiatric Publishing.

Collateral Interviews

Jennifer Arsanto, M.Ed., 10/20/15

I conducted a telephone interview with Ms. Arsanto on 10/20/15 to gather her impressions of Mr. Roush's progress in treatment. Ms. Arsanto is employed as a psychology associate at the SCC. In this capacity, she has served as Mr. Roush's case manager and core group co-facilitator for the majority of this review period as well as previous review periods. Ms. Arsanto gave mixed feedback regarding Mr. Roush's participation in group. On the one hand, she stated he occasionally will not speak besides checking in and out, with limited engagement in between. On the other hand, she explained that when another group member shares information which Mr. Roush perceives to be relevant to his sexual offending, he provides relevant feedback and appears engaged. Ms. Arsanto stated Mr. Roush did not disclose any sexual arousal, ideation, or masturbation in groups or case management during the course of the previous year. She indicated he has denied all of the above when prompted, and has not spontaneously volunteered information regarding his sexual functioning without prompting.

Ms. Arsanto stated she is aware Mr. Roush has kept a journal "on and off;" however, she noted he has not brought it into case management sessions so she has not had the opportunity to review it. Likewise, she stated she is not aware of whether Mr. Roush has maintained an arousal / masturbation log. Regarding his treatment assignments, Ms. Arsanto stated Mr. Roush will need to submit revised versions of his My Thinking, Treatment Needs and Interventions, and Offense Cycle assignments in order to complete the written requirements for phase advancement. She noted he will also need to demonstrate behavioral evidence of cooperation and transparency, and improve upon his obstructing attitudes / avoidance tactics (e.g., deliberate vagueness, attempts to confuse, minimizing). To his credit, Ms. Arsanto noted Mr. Roush appeared to demonstrate improved insight into the nature of his deviant sexual interests following a group presentation in which the group provided feedback and clarification. However, she indicated she would still like to see evidence of his improved insight reflected in his written treatment assignments.

CURRENT MENTAL CONDITION

Mental Status Examination

Mr. Roush arrived on time to the interview. He was dressed in a blue collared shirt, gray pants, and black shoes. He wore a baseball cap and eyeglasses. His hygiene and grooming appeared to be adequate. His gait and general motor functioning appeared to be within normal limits. There was no evidence of psychomotor agitation or retardation. Mr. Roush was able to sit without incident during the examination with one short break. He maintained appropriate eye contact during the course of the examination. He evidenced a very mild stammer and occasionally spoke at a rapid rate, both of which appeared to be exacerbated by nervousness. He was cordial and polite, and appeared to put forth adequate effort. Rapport, sufficient for the purposes of this evaluation, was developed and maintained.

Mr. Roush described his mood as "up and down" in recent weeks due to his participation in the LRA trial, which he described as "emotional." Aside from his experiences at trial, Mr. Roush described his mood as "pretty good." His affect was anxious and somewhat restricted in range, although congruent with topics of conversation. Mr. Roush denied disturbances in sleep, appetite, or energy. There was no evidence of anhedonia (loss of interest or pleasure in previously enjoyable activities), social withdrawal, or a poor self-concept. Mr. Roush denied

suicidal ideation. He also denied homicidal ideation, and he evidenced no hostile or assaultive ideation directed toward others. No impulsivity, reckless or endangering attitudes, or uncontrolled or unmanageable behaviors were evidenced during the course of the examination.

Mr. Roush was oriented to person, place, time, and situation. During the course of the examination, he evidenced no confusion, loss of reality contact, or other gross disturbances of thought. His thought processes were organized, coherent, and goal-directed. His mentation appeared to be within normal limits with no signs of cognitive delay or excessively rapid thinking. He did not appear to be preoccupied with or responding to internal stimuli. No perseverative, bizarre, or delusional ideation was evidenced during the examination.

Mr. Roush's vocabulary, grammar, sentence structure, and general fund of knowledge suggested intellectual functioning in the low average range, consistent with results of previous psychological testing (see Appendix). He evidenced no impairment in attention or concentration abilities. Recent and remote memory abilities were intact. No expressive or receptive language deficits were observed. He was able to follow simple instructions and demonstrated basic literacy skills; however, he made multiple errors on computational tasks. Brief clinical examination of higher order cognitive functions revealed no gross deficits in concept formation, problem-solving, or simple social judgment; however, abstraction and working memory abilities were observed to be mildly impaired.

Forensic Interview

Current Sexual Functioning

Mr. Roush identified his sexual orientation as gay. He stated he thinks about sex approximately twice a week. His sexual thoughts are typically triggered by overhearing other residents using sexualized language with each other. Mr. Roush denied experiencing unwanted or intrusive sexual thoughts, and indicated this has never been a problem for him. When asked about inappropriate sexual thoughts, Mr. Roush indicated he occasionally recognizes an attraction to a youthful looking resident and may experience a sexual thought involving the resident; however, he denied indulging in such thoughts and discussed his efforts to avoid interactions with this resident so he does not "get tied up in bad behaviors." He also mentioned inappropriate thoughts involving "case building" against individuals who have wronged him.

Mr. Roush denied experiencing thoughts or fantasies involving nonconsensual, forceful, or violent sex. By contrast, he reported he did think and fantasize about forceful and nonconsensual sex during the time of his offending. However, he denied masturbating to such thoughts at that time because "I was looking to find a person to victimize." He explained he generally did not masturbate during the time of his offending because "I was sexually active with all kinds of people." Currently, were he to experience a deviant sexual thought, Mr. Roush indicated he would intervene by talking to support people or group members, or engage in a conversation to distract himself from his thoughts.

Currently, Mr. Roush reported he masturbates approximately two times per month. He stated he is able to achieve orgasm "most of the time." As a stimulus for sexual arousal, Mr. Roush stated he fantasies about memories of sexual contact with a former peer-age sexual partner. He stated he is occasionally aroused by viewing a "bedroom scene" on a television program, which again

triggers sexual thoughts involving his ex-partner. Mr. Roush denied using pornography, erotica, or any other stimulus for sexual arousal. Mr. Roush reported he views consensual sex as more arousing than sex by force. By contrast, he stated at the time of his offending, "it didn't matter, sex was sex;" he stated consensual and nonconsensual sex were equally arousing.

Offense Cycle and Relapse Prevention Knowledge

When asked to provide his "mini disclosure," Mr. Roush gave a fairly detailed account of his offense history, including his two un-adjudicated juvenile indecent liberties offenses against 9- and 10-year-old boys; nonsexual crimes including shoplifting, vandalism, burglary, mail theft, and auto theft; two attempted rapes against hitchhikers which were adjudicated as an assault and robbery, respectively; and his index crime involving the rape of his coworker, which included oral and anal sex by force.

When asked to describe his offense cycle, Mr. Roush gave a fairly similar description as in the previous year's annual review. He discussed feelings of intense anger and revenge directed at the victim of his 1989 offense. He indicated that, initially, his intentions did not include rape but the assault escalated when he became aroused while the victim was restrained. With prompting, Mr. Roush reflected on cognitive distortions which excused or justified his sexual offending, such as "I went this far I might as well rape him;" "telling myself he's not gonna tell because I never told;" "it was done to me so I can do it to them;" and "I liked it so they'll like it." He discussed "feeling bad" after the rapes; however, when prompted to explain further, he discussed concerns over his own safety in jail and prison if other inmates were to learn he was a sex offender.

Regarding other precursors to his offending, Mr. Roush identified feelings of anger, rejection, and loneliness. He described ignoring these feelings and "not talking about it." He indicated his offense cycle included staying up all night, cruising, engaging in antisocial behaviors such as stealing gas or writing bad checks, and "going from place to place" looking for opportunities to offend. When asked to describe his victim selection process, he discussed being sexually interested in males age 16 and above. He stated he targeted individuals who were alone. He also chose victims who were small in stature because they were "easier to control."

Mr. Roush rated his risk for re-offense as "very, very low." He explained "I'm always going to be aware of my surroundings and using my interventions so I don't get into a spot where I would reoffend." He stated his interventions would include calling his community corrections officer (CCO), explaining his situation and asking for help. He also indicated he would seek help from support persons. Mr. Roush identified feelings of anger and loneliness as potential triggers, and stated he has learned to cope with such feelings by "finding ways to challenge it when it comes up," such as thinking about positive things and recognizing he has others around to help him. He also indicated he has learned to challenge his offense-supportive cognitions which facilitated his sexual offending in the past.

Mr. Roush stated the most important thing that will help him avoid reoffending is his continued involvement in sex offender-specific treatment. He recognized treatment will "always be a part of my life." Specifically, he discussed the importance of delving into his own history of victimization because he believes it had a large influence over his sexual abuse of others.

Progress in Treatment at the SCC

When asked to report his thoughts about being civilly committed to the SCC, Mr. Roush stated "it's done me good." He explained his commitment has "got me to look at what I was doing, and the harm I caused to people." He stated at the time of his offending "I didn't care about anybody including myself." In treatment, he has learned to challenge the "distortions" which justified his offense behavior, and "come up with new beliefs." He reported he has learned to care about others and himself, and has learned to "step up when others are being abused and mistreated." He stated he appreciates being able to listen to fellow residents and identify with their problems. Mr. Roush indicated he has also benefitted by learning about treatment concepts. For example, he discussed a recent example in which his treatment providers helped him understand the concept of deviant sexual interests, and that for him, this referred to an interest in coercive, nonconsensual sex.

Regarding challenges in treatment, Mr. Roush discussed his "learning disability" and stated "it's hard for me to put what I'm thinking in writing." He attributed his slow progress in treatment to his difficulties with written assignments. Mr. Roush indicated he is currently waiting to present revised versions of his Offense Cycle, Treatment Needs and Interventions, and My Thinking assignments. When asked how he feels about being asked to revise assignments, he stated he sometimes thinks his treatment providers are trying to "rush" him. He stated he occasionally gets "discouraged" but stated he has never considered quitting because that is his "old pattern." He stated his immediate treatment goal is to advance to phase 4.

Mr. Roush reported he keeps a feelings journal as well as a masturbation log. He confirmed that he makes entries every time he masturbates. When challenged about his lack of disclosures in group regarding his sexual arousal, fantasies, or masturbatory behavior, Mr. Roush explained he became discouraged previously when attempting to disclose this information and his treatment providers did not believe him. When asked, Mr. Roush stated he would be open to reporting this information in the future despite his discomfort, given that transparency is an expectation for advancing in treatment.

Preparation for Conditional Release

Mr. Roush stated he believes he would be safe if conditionally released to an LRA. When asked to explain, he reiterated he is aware of his triggers, how to deal with them, and how to intervene. He acknowledged his history of "good behavior" at the SCC in contrast to his adjustment to prison. When asked if he would be safe if unconditionally released, Mr. Roush reported he would prefer a supervised release in order to "adjust" and "make sure I'm handling it the way I'm supposed to be." He seemed to demonstrate realistic expectations regarding the challenges he will face upon returning to the community.

Mr. Roush discussed the details of his LRA plan which was recently denied by the Court. He stated the jury decided the plan did not provide adequate protection for the public, primarily because it did not identify chaperones to escort Mr. Roush during trips into the community. He also noted other insufficiencies such as a lack of proper security and monitoring mechanisms at his proposed residence (e.g., cameras, alarms) and his reliance on public transportation. Mr. Roush stated he and his attorneys will plan to make the necessary improvements when petitioning for conditional release in the future. Mr. Roush affirmed he would agree to a

placement at a Secure Community Transition Facility (SCTF) if endorsed by the SCC, and he did not anticipate having any particular problems with such an arrangement.

Mr. Roush reported he would plan to support himself through a combination of savings, public assistance, and employment should he be permitted to work. Regarding employment, Mr. Roush indicated he would seek a job stocking shelves or working in a warehouse. He stated his social worker has agreed to assist him with obtaining his personal identification and vouchers for food and clothing, applying for public assistance, and accessing medical services.

Mr. Roush described the facets of his treatment contract with Jeanglee Tracer, LICSW, SOTP. He identified that the plan includes 2 hours of individual treatment and 1½ hours of group treatment weekly. He acknowledged he would have to adhere to treatment rules, submit to periodic polygraph and penile plethysmograph (PPG) testing, and maintain a journal and masturbation log. Regarding other conditions of his release plan, Mr. Roush discussed having no contact with minors, no contact with victims, no consumption of alcohol or drugs, avoiding places children and teenagers congregate (e.g., parks, malls), and having regular contact with a CCO. Mr. Roush affirmed he is willing to comply with any and all conditions imposed upon him by his treatment provider(s), the Court, and the DOC and he did not anticipate any problems complying with conditions of his release.

Physiological / Psychological Testing

There is no record of physiological or psychological testing administered to Mr. Roush during the course of this review period. Results of previous polygraph examinations, PPG assessments, and psychological tests are reported in the Appendix.

DIAGNOSTIC FORMULATION

Although the DSM-5 diagnostic categories are neither synonymous with nor substitutions for the legal terms “mental abnormality” and “personality disorder” as defined in RCW 71.09.020, DSM-5 diagnoses are commonly relied upon to provide the framework from which problem behavior(s) can be clinically conceptualized. While the DSM-5 can be used to describe an individual’s behavior, the law does not specify that an individual must have a specific DSM-5 mental disorder, nor does the law limit what mental disorders qualify for civil commitment as a sexually violent predator under RCW 71.09.060. Furthermore, as noted in the DSM-5, “this set of categorical diagnoses does not fully describe the full range of mental disorders that individuals experience and present to clinicians on a daily basis throughout the world” (p. 19).

The following diagnostic impressions were formulated primarily based on a review of Mr. Roush’ file. However, I also considered information obtained during the current evaluation, to include my personal contact with Mr. Roush and collateral contacts with SCC staff. The diagnoses offered below are identical to those which I provided in Mr. Roush’s 2014 annual review evaluation because it is my opinion that he continues to meet criteria for these disorders. As such, much of the discussion below is similar to that provided in the 2014 report.

Other Specified Paraphilic Disorder, nonconsent, in a controlled environment

The DSM-5 defines *paraphilia* as “any intense and persistent sexual interest other than sexual interest in genital stimulation or preparatory fondling with phenotypically normal, physically

mature, consenting human partners” (p. 685). Paraphilias are distinguished between *paraphilic disorders*, which are defined as “a paraphilia that is currently causing distress or impairment to the human individual or a paraphilia whose satisfaction has entailed personal harm, or risk of harm, to others” (pp. 685-686). The DSM-5 lists eight specific paraphilic disorders with explicit diagnostic criteria. However, the authors of the DSM-5 note:

The eight listed disorders do not exhaust the list of possible paraphilic disorders. Many dozens of distinct paraphilias have been identified and named, and almost any of them could, by virtue of its negative consequences for the individual or for others, rise to the level of a paraphilic disorder. The diagnoses of the other specified and unspecified paraphilic disorders are therefore indispensable and will be required in many cases (p. 685).

According to the DSM-5, *other specified paraphilic disorder* is reserved for “presentations in which symptoms characteristic of a paraphilic disorder that cause clinically significant distress or impairment in social, occupational, or other important areas of functioning predominate but do not meet the full criteria for any of the disorders in the paraphilic disorders diagnostic class” (p. 705).

Mr. Roush’s sexual offense history provides strong evidence of paraphilic arousal to coercive, nonconsensual sex. He committed (or attempted to commit) repeated violent sexual assaults against nonconsenting individuals. His modus operandi involved luring unsuspecting young men into his vehicle and driving into a remote location, using a weapon (i.e., pellet gun or knife) to gain and maintain compliance, binding the victims’ hands with rope or handcuffs, and forcing them to submit to oral and anal intercourse against their will. He reoffended relatively quickly upon re-entry into the community, and while under community supervision, which suggests a compulsive quality to his sexual offending. Additionally, he committed his offenses during times in which he had consenting sexual partners available to him, which suggests a preference for nonconsensual sex. Furthermore, during each of the offenses he was able to maintain an erection, and during the 1989 offense he achieved orgasm, indicating his level of arousal did not diminish in response to his victims’ protests. All of these details would suggest Mr. Roush enjoyed, or at least was not deterred by, the nonconsensual elements of these sexual acts. Past results of phallometric testing provide further evidence of sexual arousal to themes of coercion and rape. Notably, during treatment this year, Mr. Roush acknowledged he enjoyed exerting power and control over the victims, endorsed a preferential arousal to coercive sex over consensual sex, and reported a history of sexually arousing fantasies involving violence and coercion (SCC Bates Stamp 3884). Additional diagnostic criteria for this disorder are met because satisfaction of his paraphilic urges clearly caused significant harm to his victims and impaired his functioning by virtue of his long-term confinement.

It is worth noting there is no evidence of continued paraphilic arousal in recent years at the SCC. Mr. Roush is not endorsing active rape fantasies and there is no indication he has engaged in coercive sexual behavior at the SCC. However, because he has remained in a highly-controlled environment under close supervision by professional staff, I do not consider the absence of evidence to be evidence of remission. I have included the diagnostic specifier “in a controlled environment” to denote that Mr. Roush has had limited opportunity to express symptoms of his paraphilic disorder while confined at the SCC. Consistent with DSM-5 guidelines, Mr. Roush’s

paraphilic disorder would not be considered to be in remission until he is able to demonstrate an absence of symptoms for an extended period of time while in an uncontrolled environment.

As discussed in my 2014 annual review evaluation of Mr. Roush, I concur with Dr. Yanisch's decision to rule out Mr. Roush's provisional diagnosis of pedophilic disorder, as had been previously applied by other forensic evaluators. For further discussion and rationale regarding this decision, please see my 2014 annual review evaluation report or Dr. Yanisch's 2013 report.

Antisocial Personality Disorder, with paranoid personality traits

The DSM-5 defines a *personality disorder* as "an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress and impairment" (p. 645). *Antisocial personality disorder*, specifically, is characterized by a pervasive pattern of disregard for, and violation of, the rights of others, occurring since the age of 15 years.

Mr. Roush's history clearly shows a failure to conform to social norms with respect to lawful behaviors, as evidenced by repeatedly performing acts that are grounds for arrest. He has an extensive juvenile and criminal history involving both sexual and nonsexual offenses. During the commission of his crimes, Mr. Roush evidenced deceitfulness, impulsivity, irritability and aggressiveness, reckless disregard for the safety of others, and a clear lack of remorse for his behaviors, all of which are consistent with antisocial personality disorder. To Mr. Roush's credit, he has consistently exhibited rule-compliant behavior and has not expressed these traits in an overt manner in recent years at the SCC. However, I would reiterate that Mr. Roush has remained in a highly structured environment under constant oversight by professional staff. In my opinion, given his history, Mr. Roush continues to meet diagnostic criteria for antisocial personality disorder and will not warrant consideration for remission until he is able to demonstrate substantial, prolonged change in an uncontrolled environment.

Additionally, as described extensively in Dr. Yanisch's 2013 annual review evaluation, Mr. Roush has evidenced rigid and longstanding paranoid personality traits, to include pervasive distrust of others, suspicion that others are exploiting or harming him in some way, and an inclination to bear grudges or exact revenge against persons whom he believes have wronged him. As such, I concur with Dr. Yanisch's decision to include paranoid personality traits as a diagnostic specifier.

In summary, based on the totality of the available data, it is my professional opinion that Mr. Roush meets diagnostic criteria for the following DSM-5 mental disorders:

- **Other Specified Paraphilic Disorder, nonconsent, in a controlled environment**
- **Antisocial Personality Disorder, with paranoid personality traits**

SEXUAL VIOLENCE RISK ASSESSMENT

Actuarial Risk Assessment

The Static-99R is an actuarial risk prediction instrument designed to estimate the probability of sexual offense recidivism for adult males who have been charged with or convicted of at least

one sexual offense against a child or non-consenting adult. This instrument utilizes primarily *static* (unchangeable) risk factors which have consistently shown to be empirically associated with sexual reoffending. However, it should be emphasized the Static-99R does not measure all relevant risk factors. The ten items comprising the Static-99R assess the offender's demographic characteristics, criminal history information, and victim characteristics. The manual² provides explicit rules for coding these items and combining them to derive a total score, which is linked with probability estimates for sexual offense recidivism. Research with the Static-99R has demonstrated moderate predictive accuracy. The Static-99R is widely accepted by the scientific community, courts, and forensic practitioners.

Mr. Roush's Static-99R was scored based on a file review. Should additional knowledge of Mr. Roush's history surface indicating the information in his file is incomplete or inaccurate, an adjustment in his scores may be warranted. I assigned Mr. Roush a **Total Score of 7³** on the Static-99R. This places him in the **High Risk Category** for being charged with or convicted of a new sexual offense.

Static-99R recidivism estimates were statistically derived based on the observed rates of sexual re-offense across the instrument's normative samples. These recidivism estimates have been periodically updated to incorporate data obtained from more recent samples of sexual offenders. The current version of the *Evaluators' Workbook*⁴ provides estimated recidivism rates for two norm groups: routine correctional and high risk / high need. This distinction is made because base rates have been found to vary across samples due to factors external to the Static-99R.⁵ That is, offenders from routine samples have, on average, significantly lower rates of recidivism than offenders from high risk / high need samples.⁶ The routine group is comprised of random (i.e., unselected) samples of offenders believed to be representative of the hypothetical average of all sex offenders. This group includes 10 samples totaling 4,325 offenders drawn from the United States, Canada, United Kingdom, and Western Europe. The high risk / high need group is comprised of samples of offenders preselected on the basis of perceived high levels of risk or need, such as those receiving infrequent measures, interventions, and sanctions reserved only for the highest risk cases. This group includes 5 samples totaling 1,155 offenders drawn from Canada and Denmark.

² Harris, A. J. R., Phenix, A., Hanson, R. K., & Thornton, D. (2003). *Static-99 coding rules: Revised – 2003*. Ottawa, ON: Solicitor General Canada. Retrieved from <http://www.static99.org/>

³ On his 60th birthday next month, Mr. Roush's Static-99R total score will be reduced to 5, which will place him in the Moderate-High risk category. This score will reflect a modest decline in recidivism estimates.

⁴ Phenix, A., Helmus, L., & Hanson, R. K. (2015). *Static-99R and Static-2002R evaluators' workbook*. Retrieved from <http://www.static99.org/>

⁵ Helmus, L., Thornton, D., Hanson, R. K., Babchishin, K. M., & Harris, A. J. R. (2012). Absolute recidivism rates predicted by Static-99R and Static-2002R sex offender risk assessment tools vary across samples. *Criminal Justice and Behavior*, 39, 1148-1171.

⁶ Hanson, R. K., Thornton, D., Helmus, L. M., & Babchishin, K. M. (in press). What sexual recidivism rates are associated with Static-99R and Static-2002R scores? *Sexual Abuse: A Journal of Research and Treatment*.

In order to most accurately estimate Mr. Roush's probability of sexual offense recidivism, I considered the extent to which he resembles the typical member of the routine samples, or if he is more representative of the samples preselected as high risk / high need. I determined Mr. Roush most closely resembles offenders in the high risk / high need norm group based on the following considerations. First of all, Mr. Roush has been indefinitely civilly committed due to his perceived high risk for re-offense, which is a measure reserved for only the highest risk cases, similar to the individuals pre-selected for high risk / high need samples. Secondly, I relied on a 2007 study which measured the recidivism rate of a sample of sex offenders in Washington State who were referred for civil commitment but for whom no petition was filed.⁷ I reasoned that offenders in this sample likely had similar characteristics as SCC residents. Results of this study revealed a sexual offense reconviction rate of 25% over a 6-year follow-up period. This rate far exceeds the five-year base rate for routine samples (7.6%) and more closely resembles (although still exceeds) the 5-year base rate for high risk / high need samples (18.7%; Hanson et al., in press). Finally, similar to members of the high risk / high need samples, Mr. Roush possesses a number of external risk factors not measured by the Static-99R (see Psychologically Meaningful Risk Factors below). For these reasons, I chose to reference the high risk / high need norm group to derive Mr. Roush's risk estimates.

Offenders from the high risk / need samples with the same total score as Mr. Roush were estimated to sexually reoffend at a rate of **30.7% in 5 years** (95% CI = 25.1 to 37.0) and **42.8% in 10 years** (95% CI = 33.9 to 52.3).⁸ This means that out of 100 sexual offenders with the same score as Mr. Roush, between 26 and 37 would be expected to reoffend after five years in the community, and between 34 and 53 would be expected to reoffend after ten years.

It is important to emphasize that the probability estimates provided by the Static-99R are *group estimates* based upon frequency of reoffending within the instrument's developmental samples. As such, they should not be interpreted as a prediction of whether or not a given *individual* will recidivate. It would be erroneous to conclude Mr. Roush has a 42.8% chance of sexually reoffending. Rather, this figure indicates an estimated 42.8% of offenders from the high risk / high need samples with scores equivalent to Mr. Roush were charged with or convicted of a new sexual offense over a period of ten years. It is often argued that the Static-99R actually underestimates the "true" probability of sexual reoffending, as many offenses go undetected. Overall, Mr. Roush's risk could be higher or lower than the estimates produced by his Static-99R score depending on the presence or absence of external risk factors and protective factors not measured by this instrument.

Psychologically Meaningful Risk Factors

In addition to the static risk factors described above, evaluators often consider the extent to which an offender possesses psychologically meaningful risk factors (also referred to as dynamic risk factors) which are both theoretically and statistically linked with repeat sexual offending.

⁷ Milloy, C. (2007). *Six-year follow-up of 135 released sex offenders recommended for commitment under Washington's sexually violent predator law, where no petition was filed*. Olympia: Washington State Institute for Public Policy, Document No. 07-06-1101.

⁸ A reduction in his total score from 7 to 5 next month will produce new recidivism estimates of 21.2% in 5 years (95% CI = 18.0 to 24.8) and 32.1% in 10 years (95% CI = 26.7 to 37.9).

These are conceptualized as enduring characteristics that lead to predictable expressions of thoughts, feelings, and behaviors which cause an individual to interact with his environment in ways which are relevant to recidivism risk. Consideration of these factors is not only useful for risk assessment purposes, but can also inform treatment planning and risk management decisions. A recent article presented meta-analytic findings which show robust empirical support for several psychologically meaningful risk factors.⁹

Before further discussion of these risk factors, certain caveats warrant consideration. It is quite difficult, perhaps impossible, to reliably assess current manifestations of many of these risk factors in residents at the SCC. These individuals have been forcibly removed from the community and placed in an artificial, highly controlled environment in which they are unlikely to express the traits associated with their sexual offending. They are isolated from sexually arousing stimuli, insulated from environmental stressors and other destabilizing influences, closely monitored by professional staff, and receive immediate consequences for misbehavior.

An absence of such traits in the institutional setting may not necessarily reflect substantive change or improvement. Furthermore, because residents are aware that disclosing their paraphilic interests, preoccupation with sex, offense-supportive attitudes, and other risk factors may bode unfavorably with respect to their release from the facility, they may be inclined to suppress or deny such traits. Finally, many of the risk factors described below, such as emotional intimacy with adults and negative social influences, cannot be assessed meaningfully in the context of ongoing confinement, and instead are better assessed in a community setting. Notwithstanding these limitations, a discussion of these psychologically meaningful risk factors, and their applicability to Mr. Roush, is provided below.

Sexual Preoccupation refers to an abnormally intense interest in sex that dominates psychological functioning. Sex is engaged in for itself, as a way of defining the self, or as self-medication. This is a prominent risk factor for Mr. Roush. Historical evidence for this factor includes use of pornography, solicitation of prostitutes, frequent and indiscriminate sexual activity with numerous casual partners, sexualized coping, and a high rate and density of sexual offending, including shortly following release from custody and while under community supervision. In recent years Mr. Roush has reported reduced time spent thinking about sex, reduced sex drive, and infrequent masturbation. He continues to report urges to sexually cope on a regular basis; however, he appears to be intervening with some measure of success. Overall, Mr. Roush's risk for sexual recidivism appears to be enhanced by the presence of this risk factor.

Sexual Preference for Prepubescent or Pubescent Children refers to an intense interest in or preference for sexual activity with females aged 0 to 12 years or males aged 0 to 13 years. Technically, Mr. Roush's alleged juvenile offenses against prepubescent boys could be regarded as evidence of a sexual interest in children. However, given that as an adult, Mr. Roush has offended against and engaged in sexual activity exclusively with post-pubescent and adult males, it is apparent that his sexual object preference matured as he aged. As discussed in the diagnostic formulation, I do not believe he meets diagnostic criteria for pedophilic disorder. For these reasons, this risk factor is not considered to be present for Mr. Roush.

⁹ Mann, R. E., Hanson, R. K., & Thornton, D. (2010). Assessing risk for sexual recidivism: Some proposals on the nature of psychologically meaningful risk factors. *Sexual Abuse: A Journal of Research and Treatment*, 22, 191-217.

Sexualized Violence describes an interest in sadism or preference for coercive sex over consenting sex. This is another prominent risk factor for Mr. Roush. Mr. Roush committed a series of violent sexual assaults against nonconsenting victims. During commission of his offenses, he took extreme measures which included binding his victims' hands and threatening them with weapons. He has reported that he enjoyed exerting power and control over, and humiliating, his victims. He has also reported a preference for coercive sex over consenting sex, as well as sexually arousing fantasies involving themes of violence and force. Mr. Roush's risk for sexual re-offense appears to be enhanced by the presence of this risk factor.

Multiple Paraphilias are two or more rare, unusual, or socially deviant sexual interests in persons, objects, or activities. Among sexual offenders, the most common are paraphilias involving pedophilia, exhibitionism, voyeurism, and paraphilic rape. As discussed in the diagnostic formulation, it is my opinion that Mr. Roush does not meet diagnostic criteria for multiple paraphilic disorders. This risk factor is not considered to be present for Mr. Roush.

Offense-Supportive Attitudes are defined as beliefs that justify or excuse sexual offending. The risk-relevant attitudes are those which condone sexual offenses in others or in general, rather than the accounts offenders provide to excuse or justify their own specific offenses. Mr. Roush has described beliefs which justified his sexual offending, some of which resemble typical "rape attitudes" endorsed by repeat sexual offenders. For example, Mr. Roush convinced himself the victims of his offenses enjoyed the rapes because he learned to enjoy abuse from the perpetrators of his victimization, and because the victims' bodies "responded" during the rapes. Mr. Roush's treatment plan identifies "rape attitudes" as a dynamic risk factor, and Mr. Roush has acknowledged this as an area which warrants monitoring in treatment. To his credit, Mr. Roush is no longer endorsing offense-supportive attitudes, and appears to be intervening successfully. Given his history, however, this risk factor is considered to enhance his risk for sexual reoffending.

Emotional Congruence with Children applies to offenders who feel that relationships with children are more emotionally satisfying than relationships with adults. Offenders who are emotionally congruent with children may find children easier to relate to than adults, may feel like children themselves, and may believe that children understand them better than adults do. This risk factor is not considered to be present for Mr. Roush.

Lack of Emotionally Intimate Relationships with Adults applies to offenders who have no intimate relationships and to those whose intimate relationships involved repeated conflict and / or infidelity. This risk factor is present for Mr. Roush because he has never maintained a long-term, intimate, marital-type relationship with an adult partner. Although he has expressed a desire to form such a relationship, he has yet to demonstrate the capacity to do so. His risk for sexual recidivism appears to be enhanced by the presence of this risk factor.

Lifestyle Impulsiveness refers to low self-control, chronic instability in employment and housing, lack of meaningful daily routines, irresponsible decisions, and limited or unrealistic long-term goals. While in the community, Mr. Roush exhibited an impulsive lifestyle characterized by poor self-control, irresponsibility, substance abuse, unstable employment, and supporting himself

through crime. While confined at the SCC, he has demonstrated a structured living routine, rule-compliant behavior, and a stable employment record. It remains to be seen how Mr. Roush would function in a less controlled environment. Given his history, this risk factor is considered to enhance his risk for sexual recidivism.

Poor Problem Solving involves cognitive difficulties in generating and identifying effective solutions to the problems of daily living. Offenders may avoid addressing obvious problems and deploy ineffective problem-solving skills when problems are attended to. Mr. Roush certainly employed poor problem solving skills in the community as evidenced by repeatedly resorting to crime to get his needs met despite repeated negative consequences. His history is reflective of poor decision making and a failure to anticipate or avoid negative consequences. At the SCC, Mr. Roush has demonstrated improved problem solving skills. His decision to participate in sex offender-specific treatment is an example of positive problem solving. This risk factor does not appear to contribute significantly to Mr. Roush's risk for sexual re-offense.

Resistance to Rules and Supervision describes a propensity for rule-breaking behavior and general opposition to external control. Examples include rule violations, noncompliance with supervision, and violation of conditional release. This appears to be a mixed factor for Mr. Roush. His history of violating community supervision and incurring institutional infractions provides evidence for this factor. However, as previously discussed, Mr. Roush has exhibited rule-compliant behavior for an extended period of time during his confinement at the SCC. At the present time, this risk factor does not appear to contribute significantly to his risk for sexual re-offense; however, given his history, this factor would warrant continued monitoring should Mr. Roush be conditionally released to a less structured environment.

Grievance / Hostility involves the perception of having been done wrong by the world, feeling that others are responsible for one's problems, and wanting to punish others as a consequence. Offenders with this schema are preoccupied with obtaining the respect they desire from others and frequently ruminate on vengeance themes. They have difficulty seeing other people's point of view and anticipate further wrongs will be perpetrated against them. This is another prominent risk factor for Mr. Roush. He demonstrates a Machiavellian point of view and is preoccupied with concerns over his own victimization. He expects to be mistreated by others, and is prone to ruminating about thoughts of revenge. His risk for sexual recidivism appears to be enhanced by the presence of this risk factor.

Negative Social Influences refer to having a social network dominated by individuals who are involved in crime, promote criminal behavior, or weaken the behavioral controls of the offender. Mr. Roush has described a history of associating with antisocial peers which influenced his own criminal behavior. At the SCC, Mr. Roush has tended to gravitate toward individuals whom he views as prosocial, while avoiding individuals he believes would be a negative influence on him. It is notable that Mr. Roush has indicated having a limited support system in the community. Overall, there appears to be mixed evidence for this factor in Mr. Roush's case; however, it is certainly a potential area of risk which would warrant close monitoring should Mr. Roush be released to a community placement.

MENTAL ABNORMALITY, PERSONALITY DISORDER, AND VIOLENCE RISK

RCW 71.09.020 (18) defines a sexually violent predator as "any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility." In 2002, the Pierce County Superior Court found Mr. Roush to meet this statutory definition, relying primarily on a sexually violent predator evaluation conducted by Amy Phenix, Ph.D. opining such. Since that time, a series of forensic evaluators have opined that Mr. Roush has continued to meet these criteria, and the Court has reaffirmed these findings each year.

In my professional opinion, Mr. Roush's *other specified paraphilic disorder, nonconsent* constitutes "a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others," as described in RCW 71.09.020(8). In addition, his *antisocial personality disorder* constitutes "an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has onset in adolescence or early adulthood, is stable over time and leads to distress and impairment" as described in RCW 71.09.020(9). Prior to his confinement, Mr. Roush attempted to satisfy his paraphilic urges by engaging in repeated acts of sexual violence against nonconsenting young men. He reoffended relatively quickly following release from custody, including while under supervision, and his sexually violent behaviors persisted despite receiving repeated legal sanctions and professional intervention. These characteristics strongly suggest his ability to control his behavior is seriously impaired as a result of his paraphilic disorder. His personality disorder interacts with his paraphilic disorder in a manner that further attenuates his emotional and volitional control. He is prone to acting impulsively and aggressively, with disregard for his and others' safety; he has limited capacity for remorse; and he has been willing to violate laws and others' rights in order to satisfy his sexual urges.

As previously discussed, there is no overt evidence of continued paraphilic arousal during the current review period. Mr. Roush is not endorsing active rape fantasies or espousing offense-supportive attitudes, and he is not openly engaging in paraphilic behaviors in the institution. While this may have positive implications for treatment planning and risk management, I do not consider this to be evidence that Mr. Roush no longer has a paraphilic disorder. He has remained in a controlled environment which serves to suppress paraphilic symptomatology in all but the most extreme cases. To his credit, he continues to progress gradually in sex offender-specific treatment; however, he remains in the intermediate stages of change and as such, he has not yet demonstrated the advanced knowledge, skills, and self-control necessary to function safely in an uncontrolled environment. He would be at high risk for returning to his sexually violent behaviors were he to be left unsupervised.

Mr. Roush's actuarial risk score, as measured by the Static-99R, is associated with an estimated 42.8% recidivism rate 10 years post-release, which, in and of itself, would seem to fall slightly below the "more probably than not" standard defined in RCW 71.09.020(7). However, in my opinion, this is likely an underestimate of Mr. Roush's risk for sexual reoffending. First of all, as previously discussed, the Static-99R is not a flawless instrument. It does not incorporate all relevant risk factors, and because it estimates the likelihood of being detected for a new sex

offense, it most likely underestimates the likelihood of committing a new sex offense. Secondly, the Static-99R provides a 10-year rather than lifetime estimate of sexual re-offense, which poses an additional limitation for the purposes of this evaluation. Finally, Mr. Roush possesses a number of psychologically meaningful risk factors (e.g., sexual preoccupation, sexualized violence, lack of emotionally intimate relationships with adults, grievance / hostility) which enhance his risk for sexual reoffending. Taking all of the above into consideration, my opinion is that Mr. Roush more probably than not would engage in predatory acts of sexual violence if released unconditionally.

The sharp decline in sexual re-offense rates among "aging" offenders has been a well-researched topic in recent years.¹⁰ Because Mr. Roush fits this demographic, this data cannot be overlooked in his case. While the reason for this age-related decline in sexual offending is not fully known, it has been hypothesized that reduced sex drive, increased self-control, and limited opportunities for re-offense may be contributing factors. In Mr. Roush's case, an age-related adjustment to his actuarial risk estimate will be reflected next month with a decrease in his Static-99R total score from 7 to 5. This will place him in the Moderate-High risk classification, and will be associated with a modest decline in recidivism estimates. However, given that Mr. Roush has remained in a controlled environment, it is very difficult to determine the extent to which he has undergone meaningful change by virtue of the aging process, if at all. Mr. Roush's long-term risk for sexual re-offense will remain high based on the density of static and psychologically meaningful risk factors described above.

In summary, it is my professional opinion that Mr. Roush's mental abnormality and personality disorder continue to seriously impair his ability to control his behavior and render him likely to engage in predatory acts of sexual violence if not confined in a secure facility. Until he demonstrates the ability to reliably and consistently manage his sexually violent behaviors through a positive response to treatment, he remains at high risk to perpetuate his cycle of sexual offending in the absence of continued support and supervision.

CONDITIONAL RELEASE TO A LESS RESTRICTIVE ALTERNATIVE

As set forth in RCW 71.09.092, the court may enter an order directing conditional release to an LRA only if certain criteria are met. They are summarized as follows: (1) the conditionally released person must be treated by a qualified treatment provider; (2) the treatment provider must present a specific course of treatment, provide regular progress reports to the court, and report any violations immediately; (3) the conditionally released person must make and maintain appropriate housing arrangements that are sufficiently secure to protect the community; (4) the conditionally released person must be willing to comply with all requirements imposed by the treatment provider and the court; and (5) the conditionally released person must submit to supervision by the DOC.

As previously discussed, Mr. Roush petitioned the Court for conditional release to an LRA; however, his petition was denied on the grounds that it provided inadequate protection for the public. Mr. Roush remains motivated to pursue conditional release and, with the help of his

¹⁰ Hanson, R. K. (2002). Recidivism and age: Follow-up data from 4,673 sexual offenders. *Journal of Interpersonal Violence*, 17, 1046-1062.

attorneys and social worker, he plans to put forth another proposal in the future which will satisfy the Court's concerns. During the 10/15/15 interview, Mr. Roush indicated he remains under contract with Jeanglee Tracer, LICSW, SOTP and he anticipated that any subsequent LRA proposals will include participation in her treatment program. He has agreed to release conditions which would include, but are not limited to: weekly group and individual therapy with Ms. Tracer; honesty and transparency regarding his sexual thoughts and behaviors; completing journals and other written assignments; periodic polygraph and PPG testing; registering as a sex offender; full compliance with DOC supervision; no contact with victims or persons under 18 years of age; no possession of weapons; no consumption of alcohol or illicit substances; and no use of pornography.

Although I agree with the Court's determination that Mr. Roush's proposed LRA plan did not provide adequate community protection, I do believe a proposal could be put forth which imposes conditions sufficient for community safety, and I believe it is in Mr. Roush's best interest to transition to an LRA at this time. Mr. Roush has demonstrated sustained behavioral stability and rule-compliant behavior at the SCC, which will be essential for his success on conditional release. His treatment providers have described him as an active treatment participant and have noted gradual improvements in his motivation and focus. He takes full accountability for his past sexual offending, and he no longer espouses attitudes supportive of sexual offending. He makes efforts to monitor and intervene on factors which contributed to his sexual offending, such as sexual preoccupation, grievance thinking, and negative emotionality. Finally, during the current review period, his treatment providers noted improved insight into the nature of his deviant sexual interests which predispose him to sexual violence. In my opinion, Mr. Roush has demonstrated positive treatment gains sufficient for community safety, and it would be in his best interest to continue to build upon his knowledge and skills in a less restrictive setting. Incremental increases in liberties and decreases in supervision would allow Mr. Roush to encounter greater challenges, learn and adapt accordingly, and prepare himself for a safe return to the community.

Mr. Roush certainly has more work to do in treatment. Some of his foundational treatment assignments remain unfinished. He has not been forthright about disclosing his sexual thoughts or masturbatory behaviors in group. He has been challenged regarding his use of treatment-interfering tactics, such as vagueness, omission of details, and minimization. He continues to utilize mostly avoidance coping strategies rather than more robust cognitive-behavioral interventions. Finally, he tends to focus on his improvements from past behaviors rather than exploring areas for continued improvement. I would encourage Mr. Roush to work with his treatment providers to improve his deficiencies in these areas. However, I believe he can continue to make progress in these areas in therapy with Ms. Tracer, and I believe his risk could be managed under the appropriate release conditions.

Should the Court consider a conditional release to an LRA, a transition to a highly secure community facility, staffed with trained professionals who can provide 24-hour monitoring and support, would be the safest option for Mr. Roush and the community at this point in time. If granted access to services in the community, it is respectfully recommended that Mr. Roush be escorted by trained staff at all times. Of course, his conditional release would be contingent on

his ongoing participation in treatment, supervision by the DOC, and continued compliance with rules and release requirements.

CONCLUDING SUMMARY AND FORENSIC OPINIONS

On 10/25/02, the Pierce County Superior Court determined that Mr. Roush met the definition of a sexually violent predator as defined in RCW 71.09.020(18) and ordered him civilly committed to the Special Commitment Center for control, care, and treatment. According to RCW Chapter 71.09, his civil commitment to the Special Commitment Center is to continue until it is adjudicated that he no longer meets the definition of sexually violent predator, or that conditional release to a less restrictive alternative, as set forth in RCW 71.09.092, is determined to be in his best interest and conditions can be imposed that would adequately protect the community.

In my professional opinion, Mr. Roush continues to suffer from a mental abnormality and personality disorder which make him likely to engage in predatory acts of sexual violence if not confined in a secure facility. However, it is also my opinion that conditional release to a less restrictive alternative is in Mr. Roush's best interest and conditions can be imposed that would adequately protect the community. I hold these opinions to a reasonable degree of psychological certainty.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Brendan McDonald, Ph.D.", with a stylized flourish at the end.

Brendan McDonald, Ph.D.
Licensed Psychologist
Forensic Services Department
Special Commitment Center

APPENDIX – HISTORICAL INFORMATION

The majority of the historical information provided here was copied verbatim from Mr. Roush's 2013 annual review evaluation authored by Daniel Yanisch, Psy.D. Please note that Dr. Yanisch's report referenced information contained in previous annual review evaluation reports authored by Bethany Young, Ph.D. and Paul Spizman, Psy.D. (2009), Joseph McMonagle, Ph.D. (2008), and James Manley, Ph.D. (2007), as well as a sexually violent predator evaluation authored by Amy Phenix, Ph.D. (2002). This version of the Appendix was updated to reflect information not previously reported in past review periods. Additionally, slight modifications to language, formatting, and organization were made.

Social History

Mr. Roush was born on 11/06/55 to parents living in Enumclaw, Washington. He is the third of five children, with two older brothers and two younger sisters. Over the years he reportedly lost contact with his siblings due to his extended periods of incarceration (Phenix, 2002). Mr. Roush's mother was a homemaker until Mr. Roush was age nine, at which time she was employed as a dishwasher (Phenix, 2002). He has described his mother as having "bad nerves," with depression and temper outbursts, and who had to retire due to her condition. A 1972 family history indicated Mr. Roush's mother was hospitalized at Western State Hospital (WSH) twice in the early 1970s. The commitment evaluation authored by Amy Phenix, Ph.D. noted his mother was hospitalized for a "nervous breakdown" and eventually passed away at age 64 from coronary heart disease. His father, a mill worker, reportedly worked two jobs "to make ends meet" and therefore, spent limited time with the family (Phenix, 2002). Mr. Roush's father passed away from cancer at age 65 during his son's 1989 trial for rape.

Mr. Roush has described himself as being "always in trouble" and feeling consistently blamed for everything that went wrong in his household. In a 1997 interview he reported being a victim of physical and emotional abuse at home, and as a result, spending much of his time away from home. In a 1972 interview, his mother reported no problematic behavior from Mr. Roush until he was 12 years old. Then he had been influenced by a "bad" peer who had engaged in antisocial behavior. Subsequent to this, the family moved from Pierce County to King County in order to remove him from this environment. Mr. Roush had few friends as an adolescent and was frequently made a scapegoat by peers for being a "sissy." Mr. Roush was unable to participate in sports due to a childhood heel injury.

Educational History

Mr. Roush attended elementary school and junior high school in Puyallup, Washington. He reported receiving below average grades in junior high school because he "would goof around." During junior high school he was truant approximately one time per week. During high school, he was expelled on a few occasions for fighting. Mr. Roush withdrew from Fife High School when he was 16 years old to begin working.

Mr. Roush earned his high school equivalency certificate following completion of the General Educational Development (GED) tests on July 8, 1985, while incarcerated at McNeil Island Correctional Center. He has also enrolled in a few college accounting courses.

Vocational History

Mr. Roush reported he was first employed at age 11 mowing lawns and delivered newspapers at age 12 for approximately two years. After withdrawing from high school, Mr. Roush worked in two separate fiberglass jobs until age 18. According to the commitment evaluation, increases in salary prompted his job changes (Phenix, 2002). He worked at a gas station for approximately six months but reportedly quit because he worked an evening shift that interfered with his social life. Mr. Roush also worked as a janitor for two years and at a mattress factory until the factory closed. Mr. Roush denied ever being fired from a place of employment.

As cited in Dr. Phenix's sexually violent predator evaluation (2002), a Pre-sentence Investigation Report (No 031178) indicated a number of his past employers were interviewed. An employer at a restaurant where he worked as a dishwasher in 1978 indicated he had a bad attitude and simply quit appearing for work. The owner of a 7-11 store stated Mr. Roush was dismissed because it was believed he had been stealing money and goods from the store (estimated at \$3,000). It was reported Mr. Roush was constantly trying to sell auto parts and equipment to various customers at exceedingly low prices. In the same report, Mr. Roush's father noted his son was a hard worker but would not maintain steady employment.

Substance Abuse History

Per Mark McEnderfer's report (12/15/97), Mr. Roush reported he drank "abusively" between the ages of 18 and 22. Since that time he reported using alcohol "infrequently." According to Dr. Phenix (2002), Mr. Roush reported he began consuming beer at age 22 on the weekends. Mr. Roush reportedly denied becoming intoxicated on alcohol and noted he would consume a few beers once per month. He denied the use of illicit drugs (per Dr. Phenix's evaluation, 2002).

According to Dr. Phenix's sexually violent predator evaluation (2002), Mr. Roush completed 40 hours of Alcohol / Drug and Human Effectiveness Training on 09/29/80 and an additional 28 hours of Drug and Alcohol Human Effectiveness Training on 03/27/81 – both while in the Washington Department of Corrections (DOC). On 07/08/81, Mr. Roush was infraacted for "pruno" (homemade alcohol) in prison. In addition, investigative records suggest he may have been drinking and / or intoxicated when he committed the offense of rape in 1989.

Sexual History

Information for this section is drawn primarily from Dr. Phenix's 2002 evaluation of Mr. Roush. Additional information is gathered from his sexual autobiography (SAB) written at the Special Commitment Center (SCC).

Mr. Roush reported being molested at age 8 or 9 by his best friend and the friend's older brother, who committed oral copulation and anal intercourse on him on multiple occasions, and in a polygraph examination in 2003, he stated this abuse continued until he was 14 years old. He also reported having sex at age 15 with a 9 or 10-year-old boy on his paper route, forcing the boy to fellate him at knifepoint (it is unclear if this is one of the same incidents mentioned below under Juvenile Offense History). He reported being aware of homosexual attraction since age 10 (according to Dr. Phenix's report that cites a 1997 evaluation). Mr. Roush reported he began masturbating at age 12. In his 1978 evaluation with Chris Harris, MD, Mr. Roush admitted having one mutually consenting homosexual experience as an adolescent. He also recounted a

lasting relationship with a male partner just before his first adult offense with the 15-year-old hitchhiker. He related that he has acted out in a violent, sexual manner in frustration after relationships have ended. In a 1986 evaluation, he noted his first heterosexual experience occurred at age 14.

Mr. Roush has also reported his first sexual experience was at age 12, with a 20-year-old man who "seduced" him (reportedly from a 1983 evaluation). In a 1997 evaluation, he related being molested at age 14 (age 16 in a later report) by a camp employee, and again at age 17 by two peers who assaulted him in his high school bathroom.

Per Dr. Phenix's 2002 report, Mr. Roush reported no heterosexual sexual fantasies and indicated his fantasies consist of consensual activity with a male partner from prison. He noted he prefers oral and anal sex, and denied fantasies of forceful sexual activity. However, Mr. Roush reportedly admitted to feeling sexually aroused at the time of his sexual assaults. He noted that two of his victims had an attractive appearance and reminded him of a former sexual partner. Mr. Roush reported a total of 10-15 male sexual partners and no cohabiting relationships. His longest relationship with a male lasted one year with another inmate while in prison. He related no history of physical sexual dysfunction. He denied engaging in exhibitionism, voyeurism, bestiality, sexual sadism/masochism, cross-dressing, or fetish behavior. He denied any sexual arousal regarding feces, urine, or blood.

During a 2003 sexual history polygraph, Mr. Roush stated that shortly after his release from prison in August 1998, he was sexually active with "a number" of male prostitutes, at least three of which were minor males. (This 1998 date may be a typographical error. Later in the polygraph report, Mr. Roush was described as using male prostitutes during "a two-year period of time in the late 1980's," which would appear to be more consistent with a time period when he would have been out of prison). Mr. Roush has never been engaged or married. He has dated two women. The first relationship was when Mr. Roush was 18. He reported having sexual intercourse with her, but not being attracted to her. Reportedly, he did not want to have sexual activity with his second girlfriend. In 2002, Mr. Roush informed Dr. Phenix that he dated her because he did not want people to know he was homosexual.

Mr. Roush reported, in his SAB, a number of mutual homosexual encounters, and receiving and meting out sexual abuse by / with others. In his SAB, he detailed mutual sexual activity well beyond what was reported above (i.e., greatly exceeding 10-15 sexual partners).

Juvenile Offense History

According to a Child Study and Treatment Center (CSTC) Clinical Summary (no date), Mr. Roush was brought to the attention of the juvenile court for vandalism of a church, breaking and entering of a camper (which, during Dr. Yanisch's 2013 interview he noted was burglary), and shoplifting. The CSTC Summary also noted Mr. Roush took indecent liberties with a 10-year-old boy in 1969 and July 1970. In one instance, he struck the child when he called for help. In December 1970, Mr. Roush was reportedly "referred for mail theft" and was referred for indecent liberties with a 9-year-old boy "whom he threatened with a knife" in August 1971 (CSTC Clinical Summary). On 01/27/72, he was referred to the King County Juvenile Court for Assault after striking an older man over the head with a ratchet (CSTC Clinical Summary and

2002 Civil Commitment evaluation). Per Dr. Phenix's report, Mr. Roush recalled he knew the elderly male possessed money that he (Mr. Roush) wanted. He noted he "felt bad" after he assaulted the man because "I knew I hurt him and did not stay around to see if he needed help." Mr. Roush was referred to CSTC as a result of this offense and an evaluation was ordered on 03/08/72.

It should be noted that Mr. Roush corrected information from his 2005 Annual Review regarding one of his juvenile offenses. The following is taken verbatim from James Manley's, Ph.D. 2007 Annual Review:

Soon after receiving his 2005 Annual Review, Mr. Roush submitted a letter form to the Court and to the undersigned. Mr. Roush offered several areas of clarifications regarding his history. One is related to his sexual history:

"...in the Sexual History in paragraph 4 you have some wrong information in there: *Then he also related having sex at age 15 with a 9 or 10 year old boy on his paper route, forcing the boy to fellate him at knifepoint.* There was NO KNIFE use in the crime."

However, it is unclear which crime Mr. Roush was referring to since he reportedly engaged in indecent liberties on a few occasions as a juvenile. In addition, in his SAB (01/20/07), Mr. Roush describes meeting a younger boy in the summer of 1970 and taking a boy to the gravel pit. He states, "I had another paper route. I ended up riding my dad's Dick (sic) motorbike... When we got off of the bike I told him [name] and he was nine years old to take down his pants and shorts. When he said no I showed him a knife... Once he took them down I gave him a blowjob." Later in the Autobiography, Mr. Roush describes an incident meeting other children on his paper route in 1971. He described the incident but did not indicate a knife was used in the offense. During Dr. Yanisch's 2013 interview, Mr. Roush was asked if he used a knife in "any" offense as a juvenile and he stated, "I don't think so."

Per Dr. Phenix's report, Mr. Roush related to her that he had sex "with a guy he knew" at age 13 and, when age 15, had sex with a boy on his paper route. Regarding the latter incident, Mr. Roush reported he and a male peer were riding a motorcycle in a gravel pit and Mr. Roush "wanted sex and made him do it." He reported to Dr. Phenix that he always carried a knife as a youth, and made the boy orally copulate him.

Adult Offense History

The following is a chronological accounting of Mr. Roush's adult offense history.

08/19/74: Shoplifting and Obstructing a Public Servant, King County case #100745
Mr. Roush was found not guilty of Shoplifting, and was fined \$75 for Obstructing.

08/25/77: Unlawful Issuance of Bank Checks, Pierce County case #40547
Mr. Roush was found guilty and sentenced to 30 days in jail (suspended) and \$75 fine.

01/12/78: Assault in the First Degree, King County case #84618

Mr. Roush (age 23) picked up a 15-year-old male hitchhiker on the above date. As they drove, he pulled out a pellet pistol and put it to the victim's head, and threatened to blow his head off if he did not cooperate. Mr. Roush also had a hunting knife in his car ashtray, and another hunting knife strapped to his hip. According to the victim's statement, Mr. Roush had said, "All right sucker-don't do anything and don't say anything or I'll blow your head off." He ordered the victim to strip; when the victim asked why, Mr. Roush stated, "Because you're going to give me a blow-job and the whole works." As the victim began to undress, he jumped from the moving car (which had been driving at highway speed), and rolled into a ditch incurring physical injury. He ran to a nearby house and contacted police. Mr. Roush was arrested one week later and admitted that he had demanded the victim's clothes, but denied any sexual intent. In a psychiatric evaluation shortly after his arrest, Mr. Roush said he had demanded the victim's clothes because he needed to trade clothes with him for a dinner party. When Mr. Roush was asked if he had demanded oral sex from the victim, he stated he "can't remember." In an August 1978 sociological evaluation, Mr. Roush related that at the time of the incident he had been mad at his girlfriend who had refused to have sex with him. Thus, he had gone to find somebody to be sexual with. In a 2002 evaluation, Mr. Roush suggested the trigger for the offense had been a friend trying to sexually force himself on him shortly before the incident, and he had been upset about it. He reported the pellet gun had been in his car for shooting at a dog that had gotten into his garbage.

In a 2003 Sex Offender Therapy Group at the SCC, Mr. Roush stated that at the time of this offense, he had felt lonely and rejected by his partner, had been unemployed, homeless, and living in his car. He stated he had not intended or planned to assault the victim, but while he was pumping gas, he saw two men who had previously sexually assaulted him and immediately felt fearful and angry. He dealt with these feelings by treating the victim in the same manner that he had been treated by the men he saw at the gas station. He also expressed the belief that the victim would enjoy the rape.

Disposition: Mr. Roush was convicted of Assault in the First Degree on 03/22/78. He was offered a suspended sentence of 10 years of probation if he successfully completed the Sexual Predator Program at WSH. There he was evaluated but found not to be amenable to treatment. On 07/25/78 he was sentenced to 20 years in the Department of Corrections (DOC). He was eventually paroled on 05/11/83.

03/30/84: Robbery in the First Degree (initially also charged with Unlawful Imprisonment and Assault in the First Degree), Pierce County cause #84-1- 00911-1.

Mr. Roush (then age 29) picked up an 18-year-old male hitchhiker. He informed the man he was driving in the direction of the hitchhiker's destination. Instead, Mr. Roush started driving on backcountry roads, parked the car in a logged-off clearing, and asked the victim to help unload the back seat. Mr. Roush then approached the victim from behind, placed a knife to his throat, ordered him to take off his shirt, and lie face down on the car seat. Mr. Roush bound the victim's wrists with twine, and then covered the twine with tape. He then stripped him of his clothes. He fondled the victim's penis and anus, and attempted anal penetration, but the victim managed to avoid the sodomy by squirming around. During the attack, Mr. Roush told the victim he wanted him to work for him on the streets, and wanted to take nude pictures of him. He forced the victim to perform fellatio. When the victim refused, Mr. Roush forced him out of the car. The victim

begged to have his clothes and belongings returned. As Mr. Roush drove off, he threw the victim's pants and underwear out to him, but kept his wallet containing \$20. The victim remembered the car's license plate number which resulted in Mr. Roush's subsequent arrest.

During a 1986 psychological evaluation, Mr. Roush implied that he considered himself the victim in this offense. In his 2002 sexually violent predator evaluation, Mr. Roush said he had the knife in his car because of his dry wall work, where he had ropes and masking tape as well.

Disposition: On 08.22.84 Mr. Roush was convicted of the robbery charge and was sentenced to 20 years in DOC. He was paroled on 10/19/88. (This offense also constituted a parole violation.)

06/17/89: Rape in the First Degree with a Deadly Weapon (knife), Pierce County cause #89-02112-1.

Eight months after being released from jail from his Robbery conviction, Mr. Roush (age 34) was sharing a trailer with two 18-year-old male co-workers. After learning that his roommates had planned to rob him, Mr. Roush lured one roommate to go with him to look for marijuana at an abandoned logging site. At the remote site, Mr. Roush crept up behind the victim and put a knife to his throat, saying he was going to have sex with him, stating, "There's nothing you can do about it." He handcuffed the victim's hands behind his back, disrobed him, and forced him to fellate him. Mr. Roush repeatedly asked the victim if he was enjoying it, and said he was his first virgin. He then turned the victim over, rubbed lotion into his anus, anally raped him, and ejaculated inside the victim. Over the next two hours he repeatedly performed oral sex and anal rape upon his victim. During the attack, Mr. Roush left a knife stuck in the ground close to them. After his assault he dressed the victim, removed his handcuffs, and drove to the victim's mother's house, while continuing to fondle his genitals. As they were driving back, Mr. Roush had told his victim they were going back to their trailer to watch gay movies and have gay sex. After collecting his birthday money, Mr. Roush transported the victim to Mr. Roush's mother's house. When arriving, the victim ran inside and told her to call 911. The victim was found to have bruises on his wrists and a cut on the back of his neck.

In a June 1989 interview with a community corrections officer (CCO), Mr. Roush denied the rape, saying the victim was falsely reporting the crime because Mr. Roush would not give him money for drugs. He also said that he and the victim had been having consensual sex before this incident. According to Mr. Roush's employer, Mr. Roush had been living in a trailer at a construction site with two 18-year-old males, one of which was the victim. In his 2002 sexually violent predator evaluation, Mr. Roush related that he had the handcuffs in his car "for years," but did not know why. He acknowledged that he had committed most of his crimes on impulse and had gotten a rush from his behavior.

Disposition: Mr. Roush was arrested, convicted, and sentenced to 126 months imprisonment.

Incarceration Adjustment History

According to Dr. Phenix's report, Mr. Roush incurred at least seven infractions in DOC from 1978 through 1986. The infractions were for the following violations: fighting (12/18/78); throwing material at staff and attempting / aiding in a serious infraction for throwing a bag of urine at an officer that splattered on the individual (06/21/80); theft or knowingly possession

stolen property (07/05/80 and 11/15/80); possession / use of an intoxicant and attempting / aiding in a serious infraction for possession of a one-gallon jug of "pruno" (07/08/81); sending state clothing out of the institution (03/12/82); and engaging in inmate sexual act with another inmate (04/06/86).

Dr. McMonagle noted Mr. Roush was placed in protective custody subsequent to a fight in the kitchen (no other details are reported). In addition, Mr. Roush's behavior and psychological profile resulted in being turned down for transfer to a less restrictive camp during his incarceration (Dr. McMonagle's report). Mr. Roush's adjustment to being incarcerated appeared to improve, as he did not appear to incur additional behavioral sanctions past 1989.

While incarcerated, Mr. Roush received good work reports from vocational assignments. In addition, he earned his high school equivalency certificate by passing the GED tests through Pierce College while incarcerated. He also attended some college courses and participated in some psychoeducational groups while incarcerated.

Sexual Deviance Treatment History

According to a Department of Social and Health Services (DSHS) letter to the Division of Adult Corrections (from the Director of Health Information Services), Mr. Roush was admitted to WSH on 04/03/78 for a 90-day observation period subsequent to being adjudicated Guilty for Assault in the 1st Degree. Dr. Phenix's 2002 report notes he was granted a 10-year probation period provided he voluntarily submit to the sexual psychopathy program at WSH. Dr. Phenix further noted (from a court-ordered report dated 06/30/78 and authored by Clinical Director Maureen Saylor) that Mr. Roush was not deemed amenable to treatment. Specifically, he expressed very little remorse for his offenses, minimized his actions, and displaced responsibility in his account of them. Evaluators reportedly sensed a high degree of dishonesty from Mr. Roush and he was found to meet the criteria for a sexual psychopath. According to the DSHS letter, Mr. Roush was discharged from WSH on 07/25/78, at which time the court revoked his suspended sentence and he was returned to the DOC.

During a 04/01/90 Sex Offender Treatment Program interview in the DOC (per Dr. Phenix's report), Mr. Roush denied committing the 1989 offense and declined to participate in the treatment program. However, he reportedly completed other treatment classes / programs. According to Dr. Phenix's report, Mr. Roush completed Victim Awareness Education on 07/29/94 and 18 hours of Stress / Anger Management at Airway Heights Correction Center on 06/21/96. In his 2002 evaluation with Dr. Phenix, Mr. Roush related that he wanted to "break the cycle" of offending, but did not know if there was a treatment that would be helpful for him.

Mental Health History

Per Dr. Phenix's report, Mr. Roush was referred to Child Study and Treatment Center (CSTC) for an evaluation on 03/08/72 subsequent to juvenile delinquent behavior (i.e., the Assault charge). On 03/23/72, Mr. Roush was determined to be a "dependent ward" and was committed to CSTC for 90 days. Minnesota Multiphasic Personality Inventory (MMPI) findings at the time were considered consistent with a "sociopathic character disorder." Some paranoid elements in his thinking were noted, without elements of psychosis. Subsequent evaluations, while at CSTC, indicated Mr. Roush was "generally absent feelings of guilt and remorse," did not "particularly

care about the consequences to others,” and displayed a “narcissistic need for interpersonal power.” Records indicate that his parents and family did little to support the treatment that Mr. Roush received at the CSTC. “Treatment providers reported that his parents felt that ‘psychiatry therapy’ is no good, too expensive, and they wanted no part of it. They asserted that ‘All Dale needs is for his father to be more strict.’” Mr. Roush was diagnosed with Unsocialized Aggressive Reaction of Adolescence and Sexual Identity Confusion by Victor J. Ganzer, Ph.D. On 06/30/72, supervised probation was ordered and on 03/08/73, Mr. Roush “was discharged from wardship and the matter was dismissed.”

After his 1978 evaluation at the sexual psychopathy program at WSH, Mr. Roush was found to meet the statutory definition of a sexual psychopath, was considered not safe to be at large in the community, and highly likely to re-offend if returned to the community (Dr. Phenix’s 2002 report). According to the report by Maureen Saylor, the following diagnoses were provided: Sexual Deviance (rape, pedophilia) and Antisocial Personality

In January 1983, Mr. Roush was evaluated by DOC psychologist Felix Massaia and admitted sexual intent in his 1978 offense. He considered himself bisexual, but hoped to become solely heterosexual. Mr. Massaia provided the diagnoses of Pedophilia (homosexual) and Antisocial Personality.

Richard Pollard, Ph.D., evaluated Mr. Roush in 1983 as one of the conditions of his parole. Dr. Pollard stated, “From Mr. Roush’s description, his homosexual contacts with steady partners have served both a sexual and a confidential purpose, allowing him an outlet where he could, in relative safety, talk about those things which were of concern to him. Unfortunately, his previous choice of ‘partners’ who also engaged in extensive criminal activity and they probably provided each other mutual support and encouragement of antisocial acts.” Mr. Roush admitted to Dr. Pollard as having a “quick fuse,” but witnessing violence in prison frightened him, which he believed had “mellowed him out.” Dr. Pollard provided a diagnosis of Antisocial Personality Disorder.

On 08/13/92, Richard Jacks, Ph.D., evaluated Mr. Roush subsequent to his return to prison due to a parole violation (per Dr. Phenix’s report). Reportedly, Mr. Roush denied the 1989 offense but admitted prior sexual offenses. Dr. Jacks provided the diagnosis of Sexual Sadism.

In a 1997 DOC evaluation for custody promotion, Mark McEnderfer, M.S., administered a number of assessment instruments, one of which was the Minnesota Multiphasic Personality Inventory-Second Edition (MMPI-2). Mr. Roush’s MMPI-2 profile was valid, with moderate elevations on measures of antisocial behavior and hypomania. Mr. McEnderfer provided the diagnoses of Sexual Sadism and Antisocial Personality Disorder.

In 2002, Amy Phenix, Ph.D. conducted a sexually violent predator evaluation of Mr. Roush, in which she concluded Mr. Roush met the statutory criteria to be civilly committed based on the following *DSM-IV* diagnoses:

Axis I:	302.9 Paraphilia, Not Otherwise Specified
Axis II:	301.7 Antisocial Personality Disorder

Dr. Manley's 2007 annual review and Dr. McMonagle's 2008 annual review included the following *DSM-IV-TR* diagnostic classifications:

Axis I: 302.9 Paraphilia Not Otherwise Specified, Nonconsent
302.81 Pedophilia, Sexually Attracted to Males, Nonexclusive Type
Axis II: 301.7 Antisocial Personality Disorder
Axis III: Deferred to medical practitioner

In her 2009 annual review evaluation of Mr. Roush, Dr. Bethany Young (supervised by Dr. Paul Spizman) provided the following *DSM-IV-TR* diagnoses:

Axis I: 302.9 Paraphilia, Not Otherwise Specified (Nonconsent)
302.2 Pedophilia, Sexually Attracted to Males, Nonexclusive
Type (Rule-Out)
Axis II: 301.7 Antisocial Personality Disorder

Dr. Daniel Yanisch rendered identical diagnostic formulations in his 2010, 2011, and 2012 annual review evaluations of Mr. Roush. However, in his 2013 annual review, Dr. Yanisch removed the diagnosis of Pedophilia, noting that Mr. Roush's adult offenses and arousal patterns suggest an attraction to forced, coercive sex with post-pubescent males, rather than a specific interest in children. Additionally, noting Mr. Roush's significant paranoid personality features, he added paranoid traits as a specifier to Mr. Roush's Antisocial Personality Disorder diagnosis. His diagnostic formulation was as follows:

301.7 Antisocial Personality Disorder (with significant paranoid traits)
302.89 Other Specified Paraphilic Disorder – nonconsent

Psychopathy Assessment

Bethany Young, Ph.D. and Paul Spizman, Psy.D., administered the Hare Psychopathy Checklist-Revised (PCL-R) as part of Mr. Roush's 2009 annual review evaluation. Results are presented verbatim below:

The Psychopathy Checklist – Revised (PCL-R) is a measure designed to assess characteristics of a psychopathic personality, which is a conglomeration of affective, interpersonal, and antisocial traits. Initially, the original two-factor model of psychopathy, as measured by the PCL-R, has since been divided into four facets. Factor 1 is comprised of interpersonal traits (Facet 1: glibness, grandiose sense of self-worth, pathological lying, and conning/manipulative characteristics) and affective traits (Facet 2: callousness, lack of empathy and remorse, and failure to accept responsibility for one's actions). Factor 2 is comprised of lifestyle traits (Facet 3: need for stimulation, proneness to boredom, impulsivity, and irresponsibility) and antisocial traits (Facet 4: poor behavioral controls, early behavioral problems, juvenile delinquency, and criminal versatility). While the total PCL-R score provides a measure of the construct of psychopathy, information about the individual facets may provide a richer description of the individual.

Mr. Roush's total score on the PCL-R was 25.3, indicating that he possesses more psychopathic traits than roughly 62.1% of the approximately 5,400 males who comprised the most recent standardization sample of North American male offenders. A score of 25.3 does not exceed the typically accepted cut score designating psychopathy (i.e., 30); however, the score falls within the "high" range of psychopathy. His Facet 1 score was 2, indicating that he possesses more interpersonal deficits than 33.8% of the normative sample (North American male prison inmates). His Facet 2 score of 8 is the highest score one can obtain on this Facet, and indicates that he possesses more affective traits of psychopathy than the entire normative sample (i.e., 100%). His Facet 3 score was 4, indicating he possesses more lifestyle deficits than 28.8% of the normative sample. Lastly, his Facet 4 score was 8, indicating he evidences more antisocial traits than 81.1% of the North American male normative sample.

Psychological Testing

A Wechsler Adult Intelligence Scale (WAIS) administered in 1972 revealed that Mr. Roush's intellectual functioning fell in the Low Average to Average range of intellectual functioning (Verbal IQ = 87; Performance IQ = 94; Full Scale IQ = 89). In 1995, he achieved a Shipley Institute of Living Scale score of 54, placing his intellectual functioning in the average range.

In 2009, Mr. Roush underwent a neuropsychological evaluation conducted by Carole DeMarco, Ph.D., staff psychologist at the SCC. Results of the Wechsler Adult Intelligence Scale, Third Edition (WAIS-III) revealed overall intellectual functioning in the Low Average range (FSIQ = 88). His Verbal ability was measured in the Low Average range (VIQ = 85), while his Performance ability fell in the Average range (PIQ = 92). Results of the Wide Range Achievement Test, 4th Edition (WRAT-4) indicated Word Reading in the Low range (ss = 79), Sentence Comprehension in the Average range (ss = 103), Spelling in the Low range (ss = 74), Reading Composite in the Below Average range (ss = 89), and Math Computation in the Below Average range (ss = 86). Mr. Roush's attention and perceptual motor functioning was found to be within normal limits, as measured by the Trail Making Test, Stroop Color and Word Test, and Bender Gestalt Perceptual-Motor Test, though he demonstrated impairment in some executive functioning skills as measured by the Wisconsin Card Sorting Test. Finally, Mr. Roush was administered the MMPI-2 and Millon Clinical Multiaxial Inventory, Third Edition (MCMI-III) as objective personality assessments. Together, these instruments indicated positive impression management, a lack of severe psychopathology, a passive interpersonal style, a reluctance to self-disclose, and a tendency to avoid or escape situations that feel uncomfortable.

Physiological Testing

Mr. Roush underwent physiological testing on 07/26/06 and 11/20/11, when he participated in routine polygraph and plethysmograph (PPG) examinations, results of which are outlined below.

Polygraph Examination, 07/26/06

According to a letter from Dawn Minnich detailing the polygraph examination (dated 07/26/06), deception was noted on the following relevant questions:

1. Have you engaged in inappropriate touching with another person in the past 6 months?
2. Have you engaged in sexual behavior with another person in the past 6 months?

3. Have you viewed any pornography in the past 6 months?
4. Have you had thoughts of minors while masturbating in the past 6 months?

Mr. Roush reportedly answered, "no," to each question; however, it was the examiner's opinion that Mr. Roush's responses indicated deception. During the post-test interview, Mr. Roush reported he had engaged in mutual tickling with two other residents. Mr. Roush explained, "This is always done right out in the open – nothing hid." The letter notes Mr. Roush "was either unwilling or unable to offer any other reason for his deceptive responses."

Penile Plethysmograph Assessment, 07/26/06

According to Dawn Minnich, results indicated Mr. Roush's highest recorded sexual arousal (41%) was to an audio scenario depicting fondling of a male child. His next highest recorded arousal (34%) was to the audio scenario depicting sexual activity with a compliant male child.

Mr. Roush was re-presented the "Fondle Male Child" scenario a second time with the specific instructions to use any mental method learned in treatment to avoid becoming sexually aroused. He said he "focused more on the tape" during the second presentation and, in doing so, reduced his arousal to 6%. Mr. Roush tended to over-estimate the ages of the children depicted in the visual portion of the assessment. He did not appear to physically dissimulate the results.

Polygraph Examination, 11/20/2011

Mr. Roush was asked the following questions related to his PPG assessment:

1. Did you use any physical countermeasures to keep from becoming aroused during your plethysmograph assessment you just completed?
2. Did you use any mental countermeasures to keep from becoming aroused during your plethysmograph assessment you just completed?

Mr. Roush responded "No" to both questions, and, according to the test administrator Rick Minnich, no deception was indicated.

Penile Plethysmograph Assessment, 11/20/2011

Results of Mr. Roush's PPG assessment are depicted below.

Visual Stimuli	Client's Age Estimate (yrs)	Recorded Arousal (%)	Estimated Arousal (%)
Male, Age 7-9 (2)	09/14	04/08	08/10
Female, Age 10-13 (2)	16/14	29/04	03/05
Male, Age 0-3 (2)	09 mo./06 mo.	21/04	00/01
Male, Age 14-17 (2)	30/25	21/04	12/05
Female, Age 4-6 (2)	06/08	17/04	04/01
Adult Male (2)	45/35	54/13	14/14
Male, Age 4-6 (2)	06/09	13/04	05/06
Neutral	N/A	N/A	N/A
Adult Female (2)	40/22	04/08	05/06
Male, Age 10-13 (2)	15/18	08/21	10/15

Audio Stimuli	Client's Age Estimate (yrs)	Recorded Arousal (%)	Estimated Arousal (%)
Nonphysical Coercion of a Male Child (2)	15/15	25/25	13/10
Sadistic Rape of a Male Child (2)	14/15	33/33	15/14
Compliant Sex with a Minor Female (2)	16/16	29/21	14/10
Oral Sex with an Adult Male	35	25	14
Rape of a Male Child (2)	35/15	25/33	15/12
Oral Sex with an Adult Female	40	08	09
Expose to Female Child	15	29	09
Expose to Female Child from vehicle	14	21	05
Vaginal Intercourse with an Adult Female	40	12	09
Anal Intercourse with an Adult Male	40	35	12

Mr. Minnich provided the following discussion of these results:

Mr. Roush's highest recorded sexual arousal, at 35%, was to Anal Intercourse with an Adult Male #2. This was followed, at 33%, by: Sadistic Rape of a Male Child #1; Sadistic Rape of a Minor Male #2; and Rape of a Male Child #2.

Mr. Roush overestimated the ages of most of the minor males presented during the visual portion of the assessment. He was cooperative during the assessment and did not appear to physically dissimulate the results.

Brendan R. McDonald, Ph.D.

Special Commitment Center

P.O. Box 88450

Steilacoom, WA 98388

(253) 583-5946

mcdonbr@dshs.wa.gov

EDUCATION

2012-2014	Doctor of Philosophy, Counseling Psychology (Awarded: August 2014) <i>Texas Tech University</i> (APA-Accredited), Lubbock, Texas
2009-2012	Master of Arts, Psychology (Awarded: August 2012) <i>Texas Tech University</i> , Lubbock, Texas
2002-2006	Bachelor of Arts, Psychology (Awarded: May 2006) <i>Gettysburg College</i> , Gettysburg, Pennsylvania

CREDENTIAL

2015-Present	Psychologist License, Washington State Department of Health PY60545560 (Issued: April 2015)
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PROFESSIONAL EXPERIENCE

2015-Present	Forensic Evaluator <i>Special Commitment Center</i> , Steilacoom, WA Supervisor: Steven Marquez, Ph.D. Description: conducting court-mandated annual review evaluations of sexually violent predators civilly committed to the Special Commitment Center pursuant to RCW 71.09.
2015-Present	Psychologist <i>Private Practice</i> , Steilacoom, WA Description: conducting competency to stand trial evaluations of inmates detained at the Pierce County Detention and Corrections Center.
2014-2015	Postdoctoral Fellow <i>Special Commitment Center</i> , Steilacoom, WA Supervisor: Steven Marquez, Ph.D. Description: conducted court-mandated annual review evaluations of sexually violent predators civilly committed to the Special Commitment Center pursuant to RCW 71.09.
2013-2014	Predoctoral Intern <i>Western State Hospital</i> (APA-Accredited), Lakewood, WA

Co-Directors of Training: Marilyn Ronnei, Ph.D. and Richard Yocum, Ph.D.

Rotation Supervisors: Steven Marquez, Ph.D.; Jaqueline Means, Psy.D.; and Jeff Crinean, Ph.D.

Description: assisted in conducting annual review evaluations of civilly-committed sexually violent predators; conducted inpatient, in-custody, and out-of-custody forensic evaluations of pre-adjudicated criminal defendants; conducted risk assessments of forensic and civil psychiatric patients; provided group psychotherapy services to psychiatric patients; conducted psychological evaluations addressing a range of referral questions, to include psychodiagnostic assessment, personality and intellectual functioning, academic achievement, adaptive functioning, and malingering.

2013

Practicum Student

Private Practice in Forensic Evaluation and Consultation, Lubbock, TX

Supervisor: Robert Morgan, Ph.D.

Description: conducted forensic evaluations of pre-adjudicated criminal defendants in custody, to include competency to stand trial, criminal responsibility, and violence risk assessment.

2012

Practicum Therapist

StarCare Specialty Health System, Lubbock, TX

Supervisors: Robert Morgan, Ph.D.; Uduakobong Ikpe, Ph.D., J.D.; and Stephanie Howell, Psy.D.

Description: conducted competency to stand trial evaluations of criminal defendants; provided competency restoration services to criminal defendants residing in a forensic residential facility; provided group and individual psychotherapy services to jail inmates; conducted psychodiagnostic and malingering assessments of patients residing in an inpatient psychiatric facility; provided psychotherapy services to consumers with severe and persistent mental illness; conducted eligibility assessments for consumers seeking intellectual disability services.

2011-2012

Practicum Therapist

Lubbock-Crosby County Community Supervision and Corrections Department, Lubbock, TX

Supervisor: Robert Morgan, Ph.D.

Description: provided individual and group substance abuse counseling, individual and group anger management counseling, and individual psychotherapy services to probationers; conducted psychological evaluations as requested by the Court, probation officers, and treatment providers.

2011

Practicum Therapist

Texas Tech University Student Counseling Center, Lubbock, TX

Supervisors: Geetanjali Sharma, M.A.; Michael Iezzi, Ph.D.; and Amanda Wheeler, M.A.

Description: provided individual and group psychotherapy services to undergraduate students; conducted weekly intake assessments; conducted psychological assessments for treatment planning purposes.

2010-2011

Practicum Therapist

Texas Tech University Psychology Clinic, Lubbock, TX

Supervisors: Sheila Garos, Ph.D.; Steven Richards, Ph.D.; Erin Harden, Ph.D.; and Stephen Cook, Ph.D.

Description: provided individual psychotherapy services to adults in the community; completed weekly intake assessments; conducted psychological assessments for treatment planning purposes.

2007-2009

Admissions/Discharge Coordinator, Crisis Stabilization and Detox Units
Apalachee Center, Inc., Tallahassee, FL

Supervisors: Kristee Treadwell, Ph.D.; Jane Dwyer, M.S.W.; and Anna Buffington, M.S.W.

Description: provided inpatient treatment planning and discharge planning services for adults with severe and persistent mental illness and/or substance use disorders; conducted psychosocial and lethality assessments; completed suicide and homicide risk reduction protocols; provided supportive counseling and crisis intervention services.

2007-2009

Case Manager, Florida Assertive Community Treatment Program
Apalachee Center, Inc., Tallahassee, FL

Supervisor: William Solberger, LCSW

Description: provided case management services to adults with severe and persistent mental illness, to include client needs assessments, psychosocial history assessments, and treatment planning; provided rehabilitation services, to include medication delivery, supportive counseling, and crisis intervention services.

RESEARCH EXPERIENCE

2012-2013

Research Assistant

Texas Tech University School of Law, Lubbock, TX

Description: managed a research project examining the impact of videoconferencing technology on criminal defendants' perceptions of the attorney-client working relationship; duties included but were not limited to research design; consultation with attorneys and law students; data collection; data entry; and data analysis.

2009-2011

Research Assistant

Texas Tech University Psychology Department, Lubbock, TX

Description: conducted research in university, medical, and correctional settings; duties included but were not limited to data collection; data entry; and co-authorship of research publications and professional presentations.

PUBLISHED ARTICLES AND BOOK CHAPTERS

- McDonald, B. R., & Morgan, R. D. (2013). Enhancing homework compliance in correctional psychotherapy. *Criminal Justice and Behavior*, 40, 814-828. doi: 10.1177/0093854813480781
- Morgan, R. D., Kroner, D. G., Mills, J. F., Serna, C., & McDonald, B. (2013). Dynamic risk assessment: A validation study. *Journal of Criminal Justice*, 41, 115-124. doi: 10.1016/j.jcrimjus.2012.11.004
- Batastini, A. B., McDonald, B. R., & Morgan, R. D. (2013). Videoteleconferencing in forensic and correctional practice. In K. Myers & C. Turvey (Eds.) *Telemental Health: Clinical, Technical, and Administrative Foundations for Evidence-Based Practice* (pp. 251-271). Amsterdam, Netherlands: Elsevier. doi: 10.1016/B978-0-12-416048-4.00013-0
- Romani, C. J., Morgan, R. D., Gross, N. R., McDonald, B. R. (2012). Treating criminal behavior: Is the bang worth the buck? *Psychology, Public Policy, and Law*, 18, 144-165. doi: 10.1037/a0024714

CONFERENCE AND PROFESSIONAL PRESENTATIONS

- McDonald, B. R. (June 2015). *Static-99R and MnSOST-3.1: Recent Developments*. Presentation to the Washington State End of Sentence Review Committee.
- McDonald, B. R., Morgan, R. D., Campion, K., & Bolanos, A. (August 2014). *The Attorney-Client Working Relationship: Videoconferencing versus In-Person Modalities*. Poster presented at the annual convention of the American Psychological Association, Washington, D.C.
- McDonald, B., & Morgan, R. D. (August 2011). *Enhancing Homework Compliance in Correctional Psychotherapy: An Empirical Investigation*. Poster presented at the annual convention of the American Psychological Association, Washington, D.C.
- McDonald, B. (August 2011). Maximizing Therapeutic Gains when Treating Offenders with Mental Illness: Strategies for Enhancing Homework Compliance in Correctional Psychotherapy. In R. D. Morgan (Chair), *Offender Treatment Programs: Past, Present and Future Directions*. Symposium presented at the annual convention of the American Psychological Association, Washington, D.C.
- McDonald, B. (June 2011). Maximizing Therapeutic Gains when Treating Offenders with Mental Illness: Strategies for Enhancing Homework Compliance in Correctional Psychotherapy. In R. D. Morgan (Chair), *Offender Treatment Programs: Past, Present and Future Directions*. Symposium presented at the annual convention of the North American Correctional and Criminal Justice Psychology Conference, Toronto, Canada.

Cogan, R., McDonald, B., & Eaton, A. (December 2010). *Retention of Information from Written Consent Forms and Reactions to Research Participation among University Students*. Poster presented at the annual Advancing Ethical Research Conference, San Diego, CA.

McDonald, B. R., Mills, J. F., Morgan, R. D., Kroner, D. G., Steffan, J. S., & Bewley, M. T. (August 2010). *Coping with Negative Affect: Are Coping Strategies Specific to Emotion?* Poster presented at the annual convention of the American Psychological Association, San Diego, CA.

Romani, C. J., Morgan, R. D., Gutierrez, M. N., Gross, N. R., & McDonald, B. R. (August 2010). *Does Treatment Provide a Financial Incentive to Correctional Institutions?* Poster presented at the annual convention of the American Psychological Association, San Diego, CA.

HONORS, AWARDS, AND DISTINCTIONS

2014	Certificate of Achievement, American Psychological Association, Division 18 (Psychologists in Public Service)
2013	Counseling Psychology Student Research Award, Texas Tech University Psychology Department
2012-2013	Graduate Assistantship, Texas Tech University School of Law
2009-2012	Graduate Assistant Scholarship, Texas Tech University Graduate School
2010, 2011, 2014	Student Travel Award, Texas Tech University Graduate School
2009	Award of Excellence, Apalachee Center, Inc.
2004-2006	Psi Chi National Honor Society in Psychology, Gettysburg College Chapter
2002-2006	Gettysburg College Grant, Gettysburg College
2002-2006	Presidential Scholarship, Gettysburg College

EXHIBIT B



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
SPECIAL COMMITMENT CENTER

February 26, 2016

P.O. Box 88450 • Steilacoom, Washington 98388

TO: Dale Roush

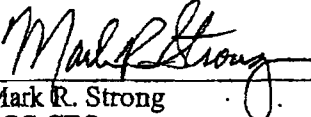
FROM: Mark R. Strong
SCC CEO

SUBJECT: NOTICE OF AUTHORIZATION TO PETITION FOR CONDITIONAL
RELEASE TO LESS RESTRICTIVE ALTERNATIVE

Pursuant to RCW 71.09.070, the Department of Social and Health Services (DSHS) must annually evaluate your mental condition, including whether you continue to meet the definition of sexually violent predator and whether conditional release to a less restrictive alternative (LRA) is in your best interest and conditions could be imposed that would adequately protect the community. A copy of your current annual evaluation was submitted to the Senior Clinical Team and the CEO for review. You will be provided with a current copy of your annual evaluation to review prior to signing this document. Copies of this notice also are being served on the prosecuting attorney and filed with the court that committed you to the Special Commitment Center (SCC).


As the DSHS Secretary's designee, I have reviewed your current annual evaluation and determined that, as a result of your progress in treatment, your condition is such that conditional release to a less restrictive alternative placement at a secure community transition facility (SCTF) is in your best interest and conditions can be imposed that would adequately protect the community. Therefore, I am authorizing you, pursuant to RCW 71.09.090(1), to petition the court for conditional release to an LRA that has support provisions similar to those at an SCTF or to an SCTF if beds are available. I am further authorizing you, pursuant to RCW 71.09.092(3), to reside at that facility following court approval of your petition.

If you choose to exercise your right to petition for release pursuant to RCW 71.09.090(1), you must file your petition with the court and serve a copy on the prosecutor responsible for your initial commitment. If you are indigent and do not already have an attorney, the court will appoint one to assist you.


Mark R. Strong
SCC CEO

2/29/2016
Date

I have read and understand this Notice of Authorization to Petition for Conditional Release to Less Restrictive Alternative.


Dale Roush

2-29-2016
Date

EXHIBIT C

JEANGLEE TRACER, MSW ACSW, LICSW
jeangleemsw@comcast.net
253-565-1400

EXPERIENCE

July 2009 - Present **Certified Sex Offender Treatment Provider**
 Licensed Independent Clinical Social Worker
 Certified Grief Counselor
 Tracer Therapy, Inc.

Licensed Clinical Social Worker and Certified Sex Offender Treatment Provider (Washington State Department of Health), in private practice, specializing in the treatment of adjudicated adolescent charged with a sex offence; with adults who have sexually offended, which include residents at the Special Commitment Center classified as SVPs (Sexually Violent Predators); and individuals who are developmentally disabled residing in a Community Protection Program due to aggressive behaviors which include physical as well as sexual. Experience working with individuals who are experiencing symptoms associated with Post Traumatic Stress Syndrome.

April 2004- July 2009 **Certified Sex Offender Treatment Provider**
 Licensed Independent Clinical Social Worker
 Comte's and Associates, Inc.

October 2001- March 2004 **Affiliate Sex Offender Treatment Provider**
 Comte's and Associates, Inc.

Licensed Clinical Social Worker and Certified Sex Offender Treatment Provider (Washington State Department of Health), specializing in the assessment and treatment of accused and convicted adolescent and adult sex offenders, children and developmentally disabled persons. Conducts evaluations for the court and risk assessments for the Division of Developmental Disabilities and the Division of Vocational Rehabilitation.

June 1998 – April 2002 **Psychiatric Social Worker**
 DSHS – Rainier State School for people with Developmental Disabilities

Psychiatric social worker member of a multidisciplinary team to provide mental health counseling for mentally and/or emotionally disturbed individuals; provided comprehensive assessments which include sociopsychiatric histories; treatment service plans; brief and long-term counseling for both individuals as well as groups; specialized in psychiatric casework with clients to effect needed social adjustments and improved emotional outlook with solution-focused applications and client-centered empowerment.

May 1997 – June 1998 **Attendant Counselor II**
 DSHS – Region 1 – Spokane, WA

Provided direct care for individuals with disabilities; participated in developing and implementing an individual service care plan; provided brief and long-term counseling for residents and their families.

September 1997 - June 1998 - **Medical Social Worker**
 Deaconess Medical Center Pediatrics/Adult Oncology Dept.

Designated medical social worker for the multidisciplinary treatment team; obtained biopsychosocial assessments; provided brief and long-term counseling for patients and their families; coordinated the needs of the hospital and patients with those of other agencies in the community; completed discharge plans.

D. Roush 002421 Δ

Jeanglee Tracer, MSW, LICSW, ACSW
CV
Page 2

January 1997 – Social Worker
June 1997 Spokane Regional Health Center

Provided brief and long-term counseling for children between the ages of 13 and 16 who had Fetal Alcohol Syndrome diagnosed with emotional, mental and/or physical disabilities; coordinated the needs between the Health Center, schools and families; prepared reports pertaining to the levels of achievement of the children and made recommendations for their continued social adjustments and improved emotional outlook with solution-focused application.

January 1996 – Social Worker
June 1996 St. Luke's Rehabilitation Institute

Obtained biopsychosocial assessments; designated psychiatric social worker member of the multidisciplinary treatment team; provide brief and/or long-term counseling with patients and their families.

EDUCATION

1998 - Masters in Social Work
Eastern Washington University, Cheney, Washington

1996 - Bachelors in Social Work
Eastern Washington University, Cheney, Washington

CREDENTIALS

Certified Sex Offender Treatment Provider
Licensed Independent Clinical Social Worker
Academy of Certified Social Workers
Certified Grief Counselor

ASSOCIATIONS

Association for the Treatment of Sexual Abusers (ATSA)
Washington Association for the Treatment of Sexual Abusers (WATSA)
National Association of Social Workers (NASW)
International Association of Trauma Professionals
Academy of the Bereavement

LICENSE NUMBERS:

1. LW00007398 - Social Worker Independent Clinical License – ACTIVE – Exp. 04/19/2017
2. FC00000179 - Sex Offender Treatment Provider Certification – ACTIVE - Exp. 04/19/2016

DETAILED INFORMATION:

NPI Number **1386050581** has the “**Individual**” type of ownership and has been registered to the following primary business legal name (which is a provider name or healthcare organization name) — **JEANGLEE TRACER**.

Records indicate that the provider gender is “**Female**”.

The enumeration date of this NPI Number is **07/08/2014**.
NPI Number information was last updated at **07/08/2014**.

The provider is physically located (Business Practice Location) at:
1905 BRIDGEPORT WAY W STE 200
UNIVERSITY PLACE, WA
98466-4846 – U.S.

The provider can be reached at his practice location using the following numbers:
Phone 253-565-1400
Fax 253-565-1710

The provider's official mailing address is:
1905 BRIDGEPORT WAY W STE 200
UNIVERSITY PLACE, WA
98466-4846 – U.S.

The contact numbers associated with the mailing address are:
Phone 253-565-1400
Fax 253-565-1710

Scope of Practice:

The following information about the specialty of the provider is available:

#	Taxonomy Code	Taxonomy	License Number	License Number State
1	1041C0700X	Clinical	LW00007398	WA

CASES CITING JEANGLEE TRACER:

1. State Of Washington v. Steve Whitcher – WA Court of Appeals, Unpublished
2. State v. Fontenot - No. 41450-3-II. - Court of Appeals of Washington, Division Two, 2012
3. Jeanglee Tracer v. Raymond C Tracer – Superior Court, Pierce County 2008– Case No. 08-3-02979-3
 - a. Divorce – Dissolution with no children

EXHIBIT D

TRACER THERAPY, INC.
Jeanglee Tracer, LICSW, ACSW
Certified Sex Offender Treatment Provider
Certified Grief Counselor

Telephone: 253-565-1400
FAX: 253-565-1710
Email: jeangleemsw@comcast.net

COMMUNITY TREATMENT PLAN (CTP)

IDENTIFYING DATA

Name:	Dale E. Roush	Cause No.:	02-2-08925-4
DOB (Age):	11/6/55	Jurisdiction:	Pierce County Superior Court
Residence:	SCC McNeil Island	Judge:	Katherine Stolz
CSOTP:	Jeanglee Tracer, MSW	CTP date:	May 15, 2015

Brendan McDonald, Ph.D. completed a Sexual Violent Predator Evaluation for Mr. Roush on October 16, 2014. Dr. McDonald summarized based on the totality of the available data, it was her professional opinion that Mr. Rouse meets diagnostic criteria for the following DMS-5 mental disorders:

- 302.89 Other Specified Paraphilic Disorder, Nonconsent
- 301.7 Antisocial Personality Disorder, with paranoid personality traits

Luis Rosell, Psy.D. completed a Sexual Violent Predator Updated Release Evaluation for Mr. Roush on February 17, 2014. Dr. Rosell offered the following under the Past Diagnoses section of this report:

Mr. Roush committed his last sexual offense over twenty-three years ago and he has been incarcerated or confined since. Based on my review of the records and interview, I believe that Mr. Roush meets the criteria for antisocial personality disorder by history...

Attempts to legitimize the diagnosis of Paraphilia NOS by calling it Paraphilia Coercive Disorder (PCDP for the new DSM-5 was undertaken. As with previous attempts this diagnosis was rejected and no diagnosis relevant to rape behavior was included. It appears now that some evaluators are using Other Specified paraphilic Disorder, nonconsent to replace the previous miscellaneous diagnoses that served as a proxy for rape behavior, paraphilia NOS diagnose. Neither of these diagnoses was intended to diagnose rapists. If that were the case, DMS-5 would have accepted and included the aforementioned PCD diagnosis.

Mr. Roush's Core Sex Offense Treatment Plan for the period January 2014 to July 2014 listed his dynamic risk factors. They are as follows:

- **Sexualized Coping – Current Presentation/Progress:** Mr. Roush has disclosed when experiencing negative feelings, he has engaged in "case building" or

Dale E. Roush
May 15, 2015
Treatment Plan

fantasize about “revenge” of those whom he felt would take advantage of him or “get over” on him. It is unclear at this time if these “revenge” fantasies are sexually motivated as they have been in his past. Mr. Roush, per his report, has made progress on intervening on these fantasies; however, he is not fully consistent. His typical intervention includes escape/avoidance rather than understanding and challenging the distorted thought processes. He has disclosed several occasions during this review period where he has had urges to sexually cope with negative feelings through masturbation; however, he had denied actually engaging in this behavior. Mr. Roush has not written in his journal or kept a fantasy/arousal/masturbation log consistently this review period.

- **Deviant Sexual Interests - Current Presentation/Progress:** Mr. Roush does not currently report regularly his fantasy/arousal and masturbation practices therefore it is difficult to assess this risk factor in the here and now. He does consistently disclose urges to seek revenge when feeling wronged or like a victim in addition to paranoia regarding others. He currently denies deviant sexual fantasies, but reports masturbating to his adult male partner who lives in the community. This has not been confirmed by physiological testing. Finally, Mr. Roush has not consistently used his journal or kept a fantasy/arousal/masturbation log this review period.
- **Lack of Concern for Others - Current Presentation/Progress:** Mr. Roush maintains a small social circle indicating little desire for deep meaningful relationships with others. When he feels negative emotionally, he has fantasized about sadistic retribution without concern for the welfare of the other person. Mr. Roush has increased his transparency regarding this risk factor, indicating he is making progress in addressing his limited transparency and development of interventions for this. Although he seems to have made progress on intervening on revenge fantasies, he is not consistent on intervening on this risk factor. He inconsistently used his journal this review period, and when he did it was noted a lack of relevant thoughts related to his interactions of others. He has slightly improved, but still very limited transparency makes this risk factor difficult to assess.
- **Negative Emotionality/Hostility - Current Presentation/Progress:** Mr. Roush struggles ruminating on negative events and how others have wronged him or perceived wrongs, often times at work. He disclosed spending time fantasizing and ruminating about revenge. Furthermore, he continues to engage in not trusting others, including his treatment providers and group. This maladaptive pattern of behavior in the here and now, is parallel to his offending thought process and behavior. During this review period, Mr. Roush has increased his transparency regarding feeling victimized, resentful and angry.

Dale E. Roush
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I am confident that all of Mr. Roush's identified Dynamic Risk Factors can be addressed using the Good Lives Model. The foundation of the Good Lives Model (GLM) is the belief that people commit sexual offenses because they lack the opportunity and/or the ability to acquire important things in their lives. It is believed that sexual offending is a result of various personal, physiological and social conditions that lead an individual to achieve his goals through inappropriate means. The GLM has been fully integrated with the cognitive-behavioral approach to the treatment of sexual offenders. The following are the ten primary human goods that all people seek to achieve in various ways:

Life – Healthy living and functioning – the basic needs in life

Knowledge – Desire for information and understanding about oneself and the world

Excellent in Play and Work – (including mastery experiences)

Excellent in Agency - Autonomy, independence, and self-directedness

Inner Peace – Freedom from emotional turmoil and stress

Friendship – Connections to others through intimate, romantic, familiar and other types of relationships

Community – A sense of belonging to a larger group of individuals with shared interests

Spirituality – A broad sense of finding meaning and purpose in life

Happiness – A state of being of overall contentedness in one's life; the experience of pleasure

Creativity – The desire to have novelty or innovation in one's life

Mr. Roush will be working from the Building a Better Life – A Good Lives and Self-Regulation Workbook. While there will be reading and writing involved, we will be working on this during his individual therapy sessions as well as in group. The group he will be placed in is rather small in order that as much time as needed will be given in order for him to gain an understanding of the concepts being presented. The contents of this workbook include:

- What Motivates Me?
- Understanding My Good Life Plan and My Goals in Life
- Self-regulation: Understanding How People Manage Themselves and Their Behavior
- Understanding My Risk Factors
- My Personal History
- My Offense Chain
- Pathways to Offending
- Who Am I and Who Can I Be?
- Bringing It All Together: Integrating Treatment Change
- My Risk Management Plan
- My Good Life Plan
- In The Community

In addition to working in the work book, Mr. Roush will be required to maintain a Fantasy/Masturbation Log as well as a Journal. He will be required to fill out a Weekly

Dale E. Roush
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Treatment Plan

Check-In Sheet at the beginning of each Group therapy session and a Feeling Statement at the end.

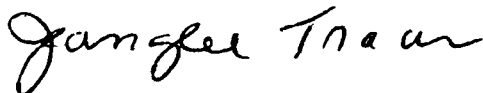
It is acknowledged that a large proportion of individuals who have sexually offended have experienced some form of abuse or neglect during their developmental years. This includes physical and/or sexual abuse. As a result, they were not provided with positive pro-social personal and/or interpersonal modeling. Consequently, these experiences can negatively affect the achievement of good lives goals and may contribute to attitudes, beliefs, and behavior that support their sexual offending. With this in mind, a pattern of sexually offending behaviors has been established over a lifespan with the individual attempting to achieve human goods that are desired and normative, but without the skills or capabilities necessary to achieve them. Based on the information contained in Mr. Rouse's Historical Information section of his Annual Review and my interview with him on January 30, 2015, he experienced the following during his childhood:

- Experiencing physical and emotional abuse in the home ^{past}
- Between his age of 8/9 and 14, he was molested by his ~~best~~ friend and the friend's older brother who committed oral copulation and anal intercourse with him on multiple occasions
- At the age of 12, he was molested by a 20-year-old man (In a 1972 interview, his mother reported no problematic behaviors from Mr. Roush until he was 12 years old)
- At the age of 14 or 16, he was molested by a camp employee
- At the age of 17, he was assaulted by two peers in the high school bathroom

Time will be spent on this in order for Mr. Rouse to address any residuals of his abuse.

A Treatment Plan is a work in progress and as such, will be reviewed 90 days after Mr. Rouse enters my program; adjustments will be made where deemed necessary.

Sincerely,



Jeanglee Tracer, MSW, ACSW
Licensed Independent clinical Social Worker
Certified Sex Offender Treatment Provider
Number: FC00000179

I have read the above Treatment Plan and I understand and agree to follow it.


Dale Roush

6-11-15
Date

TRACER THERAPY, INC.
Jeanglee Tracer, LICSW, ACSW
Certified Sex Offender Treatment Provider
Certified Grief Counselor

Telephone: 253-565-1400
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Name: _____ Date: _____

1. What happened in group today? (who participated, what was discussed, what activities did the group do?) _____

2. What did I learn? (describe what you learned about other group members, or what you learned about your treatment.) _____

3. How does it relate to me? (describe your feelings about the group; try to find a way to relate other people's experiences to your life) _____

Feeling Statements

"I felt _____ when _____, because _____"

For Example: "I felt angry when Mr. McGoo challenged me about my offense because I thought he was criticizing me."

The purpose this exercise is to help you learn to identify and express your feelings. Most sex offenders have difficulty expressing feelings, so this is a good way to practice this skill.

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WEEKLY CHECK-IN

NAME _____ DATE _____

1. Number of times masturbated _____

2. Number of appropriate fantasies ? _____
Explain _____

3. Any deviant or aggressive fantasies? _____
Explain _____

4. Any contact with your victims? Y N

5. Intentional or unintentional contacts with kids? Y N
Explain _____

6. Placed self in any risky situations? Y N

7. Spent time with people you know create
problems for you ? Y N

8. Broken any probation or treatment rules? Y N

9. Broken any laws or been with anyone while
they have broken the law? Y N

10. Used any drugs or alcohol? Y N

11. Any contact with pornography? Y N

12. Any arguments with family members?
How did you resolve? Y N

13. Challenged authority? Y N

14. Have you engaged in any sexual behavior?
(not including masturbation already reported) Y N

15. Have you abused others verbally? Y N

16. Have you felt deeply depressed? Y N
Why: _____

17. Have you made any thinking errors? N Y
Explain _____

18. Did you make any Seemingly Unimportant
Decisions or SUDs? N Y

19. Have you had any positive experience or
done anything to improve your relationships
with others? N Y

EXPLANATIONS

Do you need group time Y N

Explain _____

EXHIBIT E

TRACER THERAPY, INC.
Jeanglee Tracer, LICSW, ACSW
Certified Sex Offender Treatment Provider
Certified Grief Counselor

Telephone: 253-565-1400
FAX: 253-565-1710
Email: jeangleemsw@comcast.net

SEX OFFENDER TREATMENT PROGRAM CONTRACT

A) General Conditions:

I, **Dale Roush**, hereby enter into an agreement with **Jeanglee Tracer of Tracer Therapy, Inc.** in order to obtain treatment for my sexual deviancy. The purpose of my participation in the Sexual Offender Treatment Program is to control my sexual assaultiveness. I expect to be held fully accountable for such behavior. I accept that sexual assault is a criminal offense with serious harmful consequences to the victim, the family and the community. I acknowledge that Ms. Tracer has a responsibility to the community and the criminal justice system. I understand that Ms. Tracer will act in accordance with the primary goal of promoting community safety. I understand that although I am the designated client, the community and the criminal justice system are also the client. I understand that any re-offenses and previously undetected offenses will be reported. Confidentiality may also be breached if Ms. Tracer has reasonable belief that I am at imminent risk of doing physical/sexual harm to myself or another person.

B) Abuse of Children's Statute:

I understand that Ms. Tracer is a mandatory reporter under the Abuse of Children's Statute (RCW 26.44.030). I understand that if Ms. Tracer has reasonable cause to believe children, dependent adults, or developmentally disabled persons are, or may be at risk of abuse or neglect by the accused, then the treatment provider must file a report with law enforcement officials.

C) Step-Down LRA Requirements:

I understand continued therapy is part of the conditions of my step-down LRA. I understand that responsible treatment of my sexual deviance requires communication between Ms. Tracer and the Court and Probation Officer with jurisdictional authority. I understand that Ms. Tracer will be submitting monthly reports on my progress to the Court and the parties in this action. These reports will reference the treatment plan and include, at the minimum, the following:

1. dates of attendance
2. my compliance with the program requirements

1905 Bridgeport Way, W. Suite 200 / University Place, Washington 98466


Initials

D. Roush 002415 Δ

Dale Roush
Sex Offender Treatment Contract
Page 2

3. my treatment activities
4. any progress in my treatment and
5. any other materials that the Court specified at my hearing

By signing this document, I am authorizing Ms. Tracer to release all information that I provide, confidential or otherwise, and allow her to provide this information to the Court, the prosecutor, the supervising agency and the parties in this action.

I understand that I will be required to cooperate fully with the efforts of Ms. Tracer to communicate with other persons or agencies involved in my case. I agree to sign specific waivers of confidentiality as necessary between the Program and Children's Protective Services (DSHS), County Sexual Assault Team, victim(s) therapist or other relevant persons.

I understand successful completion of therapy is dependent upon my meeting the therapy defined in this contract, or as amended during the treatment process. I realize the treatment will involve at least weekly contact with the Program which includes individual and group counseling, behavior modification techniques, polygraph and penile plethysmograph assessments. I have received a copy of my treatment plan and any questions I had have been answered. I understand that my treatment requires me to be open and honest and that all areas of my life and personal experience will be explored. I accept that, at times, this may feel uncomfortable and invasive. I have a right to expect that Ms. Tracer will treat me with dignity and respect, regardless of the nature of my crime. I can expect that my therapy will attempt to nurture and enhance non-deviant aspects of my personality and behavior.

I have been advised of the risks of treatment, which include increased anxiety, depression and guilt, diminished self-esteem, possible social rejection, loss of contact/relationships with certain persons, interruption of sexual relationships and, possibly, unforeseen negative effects. Benefits of treatment are to develop controls over my sexually assaultive behavior and learn effective coping strategies for resolving other emotional and life problems. I understand I will not be "cured" of my sexual deviance; rather I will learn to control and manage my behavior in a socially acceptable and legal manner.

I understand that I may not change treatment providers without Court approval.

I understand the Policies and Rules of the Program are an integral part of this contract and I hereby agree to abide by their terms. I have indicated I have read and understood the Policies and Rules by initialing each page. I understand that any and all violations of this contract will be reported to the Court and my supervising Community Corrections Officer or Probation Office. Any violation of this contract may be grounds for termination from the Program at the discretion of Ms. Tracer. I understand that expulsion from treatment may result in a Court hearing. I further accept that treatment progress is continuously evaluated and that treatment can be terminated for failure to make progress or lack of cooperation with treatment expectations.


Initials

D. Roush 002416 Δ

TRACER THERAPY, INC.
Jeanglee Tracer, LICSW, ACSW
Certified Sex Offender Treatment Provider
Certified Grief Counselor

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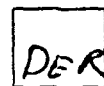
TREATMENT RULES & POLICIES

I, Dale Roush understand treatment rules are necessary conditions to insure community safety and that any violations of these rules may be grounds for termination from the program. I understand all treatment infractions will be reported to the dispositional authority.

The following are the general rules:

1. Without specific permission from the Transition Team, I am not permitted to have any contact with my victim(s). This includes contact by telephone, writing or through another person. For non-familial offenders, the no contact rule extends to all members of the victim's immediate family. I understand I am not to enter the premise where my victim(s) resides for any purpose, at any time unless authorization has been obtained from my Transition Team.
2. I understand and agree I am not to have contact with minors under the age of eighteen (18) of either sex, unless the contact is specifically approved in writing by the Transition Team. I understand and agree I am to refrain from activities such as going to parks, swimming pools, playgrounds, game rooms, or other places which would bring me into contact or close proximity with underage persons. Accidental and incidental contact with minors is not a rule violation if the contact was unavoidable. Such contacts must be reported to the Transition Team.
3. I understand and agree not to consume alcohol, unauthorized prescription medications, or illegal drugs.
4. I understand and agree to cooperate fully with law enforcement, the prosecutor's office, Child Protective Services, community corrections officer, or district court personnel and comply with terms of their suspended sentence or parole. This includes compliance with the registration law. When a rule of probation and treatment are in conflict, the more restrictive rule applies. I will be expected to be law abiding in all aspects of my behavior and lifestyle.

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Initials

D. Roush 002417 Δ

Dale Roush
Treatment Rules & Policies
Page 2

5. I understand Ms. Tracer demands honesty in her program and that it is a treatment rule violation to be caught in lies of omission or commission or any other form of deception.
6. I understand and agree to be on time and attend 100% of my scheduled therapy sessions and that all absences, regardless of the reason, must be called in prior to the scheduled appointment. I understand I may be terminated from the Program for unexcused absences or three consecutive absences.
7. I understand and agree, if deemed necessary, I will attend collateral therapies as adjunct to my treatment, such as substance abuse therapy, AA, anger management, or for other identified problems that relate to my eventual success in my primary treatment.
8. I understand and agree to complete all readings and other assignments within prescribed time limits. Notes and journals must be kept neatly and in accordance with Ms. Tracer's instructions and all additional testing required.
9. I understand and agree to sign all needed releases of information and waivers of confidentiality to allow effective communication on issues relating to safety, supervision, and other treatment needs.
10. I understand and agree to notify those persons with a "need to know" of my status as a sexual offender and my treatment rules. Such persons may include, but are not limited to family members, persons dating, employers, and neighbors.
11. I understand all sex offenses will be reported and that Ms. Tracer is required by statute and regulation to report sexual abuse and law violations. Sex offenses committed after contact with this agency are grounds for immediate termination from treatment and will be reported immediately to the appropriate agencies.
12. I understand and agree to cooperate fully with treatment expectations and that failure to participate may be considered a violation of the treatment contract.
13. I understand and agree not to possess or peruse pornography in any form. This includes, but is not limited to magazines, books, X-rated films or videos, accessing via the Internet, patronizing adult shops or strip tease businesses. Ms. Tracer will define pornography on an individual basis.
14. I understand and agree I cannot maintain relationships with persons who are negative support systems, such as persons who encourage clients to break program or probation rules, or who encourage denial, minimization, or other thinking errors. I understand and agree to have my spouse or partner acknowledge reading and understanding the content of the treatment contract and rules.


Initials

D. Roush 002418 Δ

Dale Roush
Treatment Rules & Policies
Page 3

15. I understand continuation in therapy is dependent upon my complete disclosure and acceptance of responsibility for my entire deviant sexual past.
16. I understand physical aggression is subject to immediate termination from therapy and immediate filing of an assault charge.
17. I understand group members must not divulge the names or any information about fellow group members without first receiving permission from that group member for the disclosure. Breaking this confidence may result in a treatability vote.
18. I understand and agree to cooperate with assigned behavioral treatments.
19. I understand and agree to comply with all community protection requirements/restrictions.
20. I understand and agree that I will be requested to obtain polygraphs monthly for the first three months post-release; quarterly for the next six months; and then at six-month intervals thereafter.
21. I understand and agree that I will be requested to obtain a Plethysmograph within six months post-release. The results of this examination will determine the need for additional ones.

Program Policies

Accountability:

I understand the Program strives to maintain accountability with the community and all referral sources. While I am the designated client, I understand the criminal justice system and the community at large also are the clients and that community safety is the first priority.

I understand that Ms. Tracer will be submitting monthly reports on my progress to the Court and the parties involved in this action. Dispositional authorities will be notified immediately if I should re-offend or violate any of my treatment rules. I understand all Court and/or Department of Corrections' rules become part of my treatment contract.

Purpose

I understand the Program's purpose is to provide treatment for those who the Court has granted a conditional release from the Special Commitment Center.


Initials

D. Roush 002419 Δ

Dale Roush
Treatment Rules & Policies
Page 4

Goals

The primary goal of the program is to prevent recidivism and continued victimization of vulnerable persons in the community.

I understand a signed treatment contract is necessary for admission to the Program. In signing this document, I am acknowledging that I have read the entire five page document; I have had the opportunity to ask and receive clarification on anything that was not clearly understood; and I have received a copy for my own records.

Dale Roush
Dale Roush

6-11-15
Date

Jeanglee Tracer
Jeanglee Tracer, SOTP

6-11-15
Date



Initials

D. Roush 002420 Δ

EXHIBIT F



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

**LESS RESTRICTIVE ALTERNATIVE
COURT-SPECIAL**

REPORT TO: The Honorable Katherine Stolz
Pierce County Superior Court

DATE: 06/10/16
DOC NUMBER: 287221

RESIDENT NAME: ROUSH, Dale

DOB: 11/6/1955

PRESENT LOCATION: DSHS Special Commitment Center

COUNTY CAUSE #: 02-2-08925-4

**LESS RESTRICTIVE ALTERNATIVE RELEASE PLAN
FOR DALE ROUSH**

PROPOSED RESIDENCE:

The proposed Less Restrictive Alternative (LRA) residence for Mr. Roush is the Department of Social & Health Services (DSHS) Secure Community Transition Facility in Pierce County (herein referred to as the SCTF-PC), which is located in an isolated area at the center of McNeil Island and has a mailing address of P.O. Box 88450, Steilacoom, Washington 98388. The main telephone number in the facility is (253) 589-6212, which rings directly into the control booth. The SCTF-PC is approximately two miles from the former Department of Corrections (DOC) McNeil Island Corrections Center, which is now closed. There are no longer any functioning residences, schools, or parks on McNeil Island.

The SCTF-PC is a self-contained residential housing made up of three living cottages, with each cottage capable of housing eight residents. The actual size of the SCTF grounds is 290 x 280 feet, all of which is fully enclosed by either 8-foot chain link fencing or structural walls. The SCTF-PC buildings are secured by either electronic locks or manually locked gates. To enter or exit the facility, a resident must pass through one of the locked gates, which would have to be unlocked prior to departure for an authorized outing, or the resident must pass through the electronically controlled entrance way at the front door of the facility program support building.

The SCTF-PC is staffed 24 hours per day, 7 days per week. The grounds and interior common areas of the living units are monitored by trained DSHS staff on a constant basis via video cameras and audio monitoring equipment. The staff are equipped with radios and cell phones at all times, thereby ensuring they are able to communicate with other team members on duty and to contact authorities in case of an emergency, fire, escape or assault.

The goal of the SCTF-PC is to promote successful community reintegration of former Special Commitment Center (SCC) residents. Each resident must participate in treatment, as well as behavioral management and life skills training and GED testing if applicable. Paid employment

D. Roush 002998

opportunities are available to all SCTF-PC residents, as well as approved outings to Work Source and recovery meetings in the community.

The SCTF-PC currently has 20 active residents, but can eventually accommodate 24 residents. The SCTF has a minimum of three staff persons in the facility at all times and a one to one ratio in the community. SCTF residents are not allowed to leave the facility for activities without the prior approval of their Residential Community Transition Team (herein referred to as RCTT or Transition Team), consisting of the assigned Community Corrections Officer (CCO), the Sex Offender Treatment Provider (SOTP), and the SCC Community Programs Administrator or other appointed SCC Clinical representative. Approved activities may include: Attending recommended treatment programs, reporting to the CCO, employment opportunities, education or training, or recreational activities and visits with family. All such excursions for residents will include being accompanied by a professionally trained DSHS escort. The SCTF serves as a "step-down" or transition facility between the SCC and subsequent placement in the community according to each resident's individual progress and available resources.

COMMUNITY PROTECTION:

Should the Court elect to grant the proposed LRA, Mr. Roush will meet with his assigned CCO on the day of his release from the SCC. All Court ordered conditions and the DOC Conditions, Requirements and Instructions will be thoroughly reviewed with Mr. Roush during the first meeting. Of note, Mr. Roush also has 12 months of DOC supervision remaining for Pierce County Cause #89-1-02112-1, which will run concurrent with his LRA supervision.

Mr. Roush will thereafter report and meet with his assigned CCO or designee weekly at the Parkland DOC office, located at 10109 S. Tacoma Way, Bldg. C, Suite 4, Lakewood, WA 98499, or as otherwise directed.

Mr. Roush will be required to submit a planned schedule of activities for the upcoming weeks for review and approval. The SCTF-PC scheduler or designee may submit copies of his weekly outing schedule to law enforcement, and the CCO/designee and law enforcement officials may perform random checks of his activities at various locations within the community, as well as his residence.

Mr. Roush will also be required to register as a sex offender with the Pierce County Sheriff's Office on the day of his release, and in accordance with RCW 9A.44.130 thereafter until otherwise relieved of that duty. Public notification/education meetings are scheduled on a case by case basis, and a notification flyer will be posted on the online registration website. Local law enforcement agencies will receive a copy of Mr. Roush's approved weekly activities, which can be utilized to perform random checks while he is residing at the SCTF or while on approved community outings.

To further promote community safety and relapse, Mr. Roush will be regularly monitored and supported by his Transition Team. It is anticipated that he will meet in person at least once monthly with the team members to facilitate community reintegration, and the Transition Team will work together to monitor and discuss his progress. Mr. Roush will be expected to develop a current relapse prevention plan that will be reviewed, edited, and revised as needed, with input from the

RCTT, in accordance with his transition goals and identified risk areas.

Per RCW 71.09.305(1)(a), unless otherwise ordered by the Court, residents of a SCTF shall wear an electronic monitoring device at all times. To the extent that electronic monitoring devices that employ Global Positioning System (GPS) technology are available and funds for this purpose are appropriated by the legislature, the department shall use these devices. I informed Mr. Roush that in the interest of community safety, all persons conditionally released from the SCC to date have been required to wear a GPS tracking device at all times. Mr. Roush indicated that he would comply with the terms of GPS monitoring.

Aside from a medical or other verifiable emergency, Mr. Roush will not be allowed to leave the SCTF-PC without prior approval from his Transition Team. In all instances, he will be accompanied at all times by at least one SCTF staff member or other court-authorized and DSHS-approved adult monitor, who must escort him when he leaves the SCTF for appointments, employment, or other approved activities. The escort must supervise Mr. Roush closely and maintain close proximity to him. In addition, the escort must immediately notify DSHS of any serious violation, as defined in RCW 71.09.325, and must immediately notify law enforcement of any violation of law by Mr. Roush.

COMMUNITY CONCERNS RELATED TO THE LOCATION OF THE PROPOSED RESIDENCE:

Neighborhood: McNeil Island is approximately 4,400 acres in size. The SCTF is located at the center of the island. There are no private residences being used on the island, and all formerly used residences have been boarded up.

Private boat owners: Private boat operators have been known to attempt docking at McNeil Island; despite being required to remain 100 yards away from the island. If a private boat is observed near the island, DSHS security patrol will be activated to redirect individuals away from the island.

COMMUNITY TREATMENT PLAN:

According to the proposed LRA, Mr. Roush intends to participate in treatment with Ms. Jeanglee Tracer, who is a state certified SOTP. Her office is located at 1905 Bridgeport Way W., Suite 200, University Place, WA 98466, and the telephone number is 253-565-1400. This location is approximately 7.5 miles from the dock, following a 20 minute ferry ride from the SCTF-PC.

Mr. Roush signed a Treatment Contract as well as a Treatment Plan on 6/11/15, agreeing to participate in sex offender treatment with Ms. Tracer. Mr. Roush has acknowledged his understanding of all treatment conditions and has agreed to participate under these conditions. The treatment conditions outlined in the contract consist of 21 affirmative acts and prohibitions outlined by Ms. Tracer for him to abide by while in treatment.

On 5/10/16, I spoke with Ms. Tracer telephonically about her treatment plan for Mr. Roush. She stated that he will join her Monday morning group (10AM-Noon) and will likely have his direct

one-to-one sessions with her on Tuesdays. Ms. Tracer stated that she is hopeful Mr. Roush can eventually have his individual sessions moved to Mondays to coincide with group sessions, as it would reduce the likelihood of his trips being cancelled due to staff shortages at the SCTF-PC.

Ms. Tracer reported that she has met with Mr. Roush approximately 4-5 times since 2014. She also pointed out that his treatment plan/contract were actually signed in June 2015, at which time Mr. Roush was informed of her expectations and agreed to abide by them.

Ms. Tracer's treatment plan lists the same dynamic risk factors noted in Dr. Luis Rosell's 2/17/14 SCC Annual Review. When I asked Ms. Tracer about her plan to address Mr. Roush's risk factors, as this information isn't directly included in her treatment plan, she stated that Mr. Roush will be required to maintain a daily journal as well as log his masturbation and sexual fantasies. I pointed out that Mr. Roush has exhibited a documented reluctance to do so while in treatment at the SCC, to which Ms. Tracer replied that this is a non-negotiable aspect of treatment that she will hold him accountable to. Ms. Tracer also addressed Mr. Roush's tendency to not be forthcoming with information or details, stating that he will be pressed upon if she or the treatment group believes he is holding back.

Ms. Tracer indicated that she wasn't aware that Mr. Roush had previously reported some attraction to two of the other residents who are currently residing at the SCTF-PC, and given the age of one of the residents, she made it clear that she ***DOES NOT SUPPORT Mr. Roush living in the same cottage with him.*** Ms. Tracer mentioned that he did participate in a sexual history polygraph in April 2016, whereby Mr. Roush was deemed truthful when he denied any sexual contact with other SCC residents since his admission.

Ms. Tracer expressed no concerns regarding Mr. Roush "fitting in" with her existing treatment group, despite having a different offense history (the rest of the group consists of individuals who have offended against children). Ms. Tracer stated that she utilizes the "Good Lives" model in therapy, and there is a commonality they all share and can relate to.

PRIOR TREATMENT DURING INCARCERATION:

SEXUAL DEVIANCY:

Mr. Roush was referred to the Child Study and Treatment Center at Western State Hospital in 1969, 1970, and 1971 following his sexual assaults of two different boys (age 10 and 9). No official records were located for the purposes of this report to corroborate what, if any, treatment Mr. Roush may have completed during this time

Mr. Roush was referred to the Western State Hospital Sexual Psychopath program on 4/3/78 and ultimately deemed not amenable to treatment. Mr. Roush was subsequently transferred to DOC custody.

There is no indication that Mr. Roush engaged in sexual deviancy treatment during any of his periods of incarceration with the DOC. Official records indicate that he declined to participate in treatment. Per Mr. Roush, he did not engage in treatment because he was in denial, and felt that he

didn't need it because he "wasn't offending all the time."

Per Dr. Amy Phenix's Sexually Violent Predator Evaluation dated 8/6/15, Mr. Roush began participating in sex offender treatment "upon arrival to SCC." This appears to be corroborated by Dr. Paul Spizman's SCC Annual Review dated 11/15/04, wherein he notes that Mr. Roush reportedly graduated to Phase 2 (of 5 total phases) in treatment at the end of 2002. Mr. Roush was noted as engaging in treatment, albeit his pace was slower. Treatment Progress Notes and Case Management Notes further indicate that Mr. Roush chose a slower pace to keep himself from becoming overwhelmed and quitting altogether. ***Mr. Roush progressed to treatment Phase 3 in 2005, but has not advanced since that time.*** He hasn't completed several assignments that are required in order to advance to Phase 4, to include an Offense Cycle, Treatment Needs and Interventions, and "My Thinking." ***He has also not engaged in consistent journaling or maintaining a fantasy/masturbation log, the latter of which is important as Mr. Roush is not actively demonstrating transparency related to his sexual fantasies.*** Most reports of masturbation or desire to masturbate are elicited by his treatment provider. Per the SCC Annual Review dated 10/30/15, while Mr. Roush reported he does engage in, more or less, appropriate sexual fantasies regarding an individual he previously had a sexual relationship with while in prison, there are not corroborating reports that he is disclosing or discussing this during case management or treatment sessions.

Mr. Roush appears to consistently report emotional dysregulation he experiences related to various experiences he finds frustrating or that induce anger. While clinical staff are pleased that he is bringing these issues to light, they continue to voice concerns that he is "under-reporting" or is only reporting when he acts appropriately in order to show himself in a better light. Treatment Progress Notes frequently reference that Mr. Roush does not provide enough detail in many of his disclosures. Mr. Roush is also noted to recognize that being vague is a defensive stance he often takes. To his credit, he has been receptive to feedback when this is brought up.

Regarding sexual preoccupation and sexually deviant fantasies, Mr. Roush has been opined to be non-deceptive in recent polygraphs regarding masturbating to thoughts of minor children or to themes of force, violence or coercion. Mr. Roush continues to endorse some evidence of sexual preoccupation, but he appears to be managing it well in a controlled environment (reporting to his therapist/treatment group if he finds another resident attractive, and keeping himself out of situations where he would be alone with a more youthful resident).

As part of this investigation, I sent a request to the SCC to interview Mr. Roush's current treatment providers regarding his progress in treatment, to assist with identifying any areas Mr. Roush continues to struggle in, and to discuss any concerns they may have regarding his potential transition to the SCTF-PC. Of note, I never received a response to this request.

On 5/13/16, CCO Tiffany Pate and I interviewed Mr. Roush at the SCC. Mr. Roush confirmed that he is still in Phase 3 of 5 in treatment. He explained that he hasn't progressed further due to interruptions in the treatment program, having changes in his facilitator, and having to make revisions to his core treatment assignments to incorporate feedback from a new treatment group. Mr. Roush voiced some frustration that he is expected to incorporate feedback that he does not feel

applies to his history. To his credit, Mr. Roush accurately reported that he thinks his treatment providers would say that he could improve in treatment, specifically noting that he could be more consistently active in group and in demonstrating transparency. Mr. Roush stated that he has started keeping a fantasy and masturbation journal to address another concern brought up by his treatment facilitators.

SUBSTANCE ABUSE:

According to available records, there is no indication that Mr. Roush has any history of abusing illegal substances or alcohol. Mr. Roush confirmed this when I met with him at the SCC on 5/13/16. He said the most frequently he ever drank was when his employer would buy everyone a drink at a local bar after work and he had “maybe a beer or two.” However, he interestingly admitted that he used alcohol and drugs as currency to solicit prostitutes.

MENTAL HEALTH:

According to available records, there is no indication that Mr. Roush has a history of mental health concerns, other than mild depression that did not require medication or therapy. He is not currently engaged in mental health treatment at the SCC nor is he prescribed any psychotropic medications.

CLINICAL / FORENSIC ASSESSMENT:

On 10/25/02, Mr. Roush was committed to the SCC for care, control, and treatment of his sexually violent behaviors and mental abnormality in accordance with RCW 71.09.060 (1).

Dr. Amy Phenix indicated in her 8/6/15 Sexually Violent Predator Evaluation that Mr. Roush meets criteria for:

- Other Specified Paraphilic Disorder, Non-Consent

As evidenced by Mr. Roush’s history of attempted and actual non-consensual sexual behaviors with both minor and adult males. Despite being aware of, and having experienced the negative consequences (i.e. imprisonment) for these behaviors, he continued to engage in them. Furthermore, the behaviors occurred over a significant period of time starting as a young juvenile into adulthood.

- Anti-Social Personality Disorder

Mr. Roush’s history includes a “pervasive pattern of disregard for, and violation of, the rights of others.” Dr. Phenix notes that aside from the sex offenses he has been adjudicated for, Mr. Roush’s criminal history includes charges for theft, burglary, shoplifting, and assault.

Dr. Phenix notes that while Mr. Roush was previously diagnosed with Pedophilia, a review of his offense history indicates that Mr. Roush’s victim choice has aged with him and his preference appears to be towards “post pubescent males from mid-teens to adulthood.”

Dr. Luis Rosell concurred with Dr. Phenix in his evaluation, dated 7/15/15, that Mr. Roush meets criteria for Anti-social Personality Disorder, but he added *by history*. Dr. Rosell disagrees with Dr. Phenix and Dr. McDonald that Mr. Roush meets criteria for a diagnosed paraphilia based on the DSM-5. Dr. Rosell opines that the use of the terms ‘Paraphilia Not Otherwise Specified’ or ‘Other Specified Paraphilic Disorder, non-consent’ are not being used appropriately.

Dr. McDonald lists the following *psychologically meaningful risk factors* as being salient for Mr. Roush:

- Sexual Preoccupation: Mr. Roush has continued to endorse urges to sexually cope (in response to both negative and positive moods or events). Mr. Roush has appeared to have at least some success in intervening on these urges.
- Sexualized Violence: Mr. Roush's sexual offenses involved non-consenting victims and included elements or threats of violence (use of weapons and restraints). Mr. Roush has also indicated a preference for non-consenting sexual activity versus consensual.
- Offense Supportive Attitudes: Historically, Mr. Roush endorsed many cognitive distortions regarding his sexual offending to include "they won't tell what happened because they are male" and projecting his own 'learned' enjoyment of sexual abuse he experienced on his victims. Through treatment, Mr. Roush appears to have made improvements in this area but it remains a risk factor to be monitored.
- Lack of Emotionally Intimate Relationships with Adults: Mr. Roush's history does not include an acceptable committed, intimate relationship with another adult. While Mr. Roush has previously reported a meaningful relationship with an individual he was housed with in prison, this relationship was not appropriate and once Mr. Roush and the individual were separated, the relationship dissolved. Mr. Roush has voiced the desire to form an appropriate relationship but has not demonstrated the capacity to do so.
- Lifestyle Impulsiveness: Mr. Roush exhibited poor self-control, irresponsibility, substance, abuse, unstable employment, and supporting himself through criminal activity during his time in the community. While he has been largely rule compliant in the highly structured environment of the SCC, he will need to continue to demonstrate his ability to manage his behaviors if/when these structures are no longer as concrete.
- Grievance/Hostility: Mr. Roush continues to endorse expectations that others are out to wrong him. He has also voiced a desire to engage in 'case building' which refers to acts that he would make to 'set up' an individual he has felt has wronged him. While he has demonstrated greater ability to control his behavior, he is still prone to some outbursts and continues to report struggling with ruminating on perceived slights.

While in her August 2015 report, Dr. Phenix opined that Mr. Roush continues to meet the criteria of a Sexually Violent Predator and conditions could not be put in place that would adequately protect the community, Dr. McDonald opined, "While Mr. Roush certainly has more work to do in treatment, a conditional release to a highly secure community facility, staffed with trained professionals who can provide 24-hour monitoring and support, would be the safest option for Mr. Roush and the community at this point in time. It is further recommended that Mr. Roush be escorted at all times on any community outing, that he continue to actively participate in treatment, and that he is closely supervised by the DOC."

On 5/13/16, CCO Tiffany Pate and I interviewed Mr. Roush at the SCC, at which time I asked Mr. Roush to outline his sexual offense history and sexual behaviors. Mr. Roush's account was largely congruent with previous reports and official documents, but he did not readily include that he had used a weapon in the commission of his instant offense. When prompted, Mr. Roush admitted that he had used a knife to gain victim compliance.

Regarding his juvenile sex offense history, Mr. Roush denied that he was ever charged, though allegations were referred to, and he was interviewed by law enforcement. Mr. Roush stated that “nothing ever happened,” and he was only referred to the Child Study and Treatment program at Western State Hospital for assaulting an adult male with a wrench.

Mr. Roush disclosed that he did frequent male prostitutes for approximately 9 months, but denied that any of them were minor children. Mr. Roush stated that he ceased doing so because he was arrested for the index offense. He also stated that he had sexual relations with individuals he met in prison, following his release to the community.

Mr. Roush stated that his longest “relationship” lasted 8 years with an individual in prison; however, it was not a monogamous relationship. He stated that his longest monogamous relationship began at age 16 and lasted 4 years with a peer aged male. Mr. Roush stated the relationship ended when his partner joined the military and left the area.

Regarding his early history, Mr. Roush reported that his family moved following his own alleged sexual abuse, at which point he said he started offending against children because he “missed the abuse.” Mr. Roush stated that he largely had friends who engaged in acts of vandalism and petty theft and that he enjoyed these activities because of the ‘adrenalin rush.’

Mr. Roush reported that the most salient dynamic risk factors for him are cooperation with supervision, negative emotionality, lack of concern for others, sexual preoccupation, and sexual entitlement. He was able to detail that his offense cycle consisted of becoming angry or resentful, particularly if he felt he had been rejected sexually or socially. He would identify his victim, often the individual who he felt had wronged him, attempt to isolate the person, gain an advantage through surprise or coercion, and then offend against the victim.

It is interesting to note that Mr. Roush denied sexual attraction to minor children, but when asked what conditions he thinks should be imposed to keep the community safe, he stated that he should not be in areas where teenagers congregate. Mr. Roush also denied that alcohol and drugs ever played a part in his offending, but stated that he needs to refrain from alcohol or drug use/possession. When I questioned Mr. Roush about this, he stated that he used alcohol and drugs as currency to solicit prostitutes. Lastly, Mr. Roush recommended that he not be allowed to frequent areas with known prostitution issues.

SEXUAL OFFENSE HISTORY:

Adjudicated Sex Offenses:

6/17/1989 Rape First Degree (Pierce County Cause #89-1-02112-1):

Mr. Roush took a 19 year old adult male into the woods to look for marijuana plants. The two

drove around King and Pierce Counties much of the night and finally stopped near Crystal Mountain. The victim was watching the sunrise when Mr. Roush came up behind him and held a knife to his throat. Mr. Roush then handcuffed the victim and told him he was going to have sex with him. Mr. Roush undressed the victim and proceeded to orally and anally rape him over a two-hour period. Mr. Roush stuck the knife in the ground nearby, as he assaulted the victim. Mr. Roush then drove the victim to the victim's parent's house. The victim reported the assault to his mother and Mr. Roush was subsequently arrested.

Disposition: On 2/15/90, Mr. Roush was found guilty and sentenced to 126 months confinement.

3/31/84 Robbery First Degree (Pierce County Cause #84-1-00911-1):

Mr. Roush (age 29) picked up 18 year old male hitchhiker at the Evergreen Truck Stop in Federal Way. Mr. Roush told the male that he would drive him to San Francisco; however, he subsequently stopped on a logging road and while he and the victim unloaded the vehicle, Mr. Roush pulled a knife out and held it to the victim's neck. He instructed the victim to take off his shirt, lay on the backseat, and put his hands behind his back. Mr. Roush then tied the victim's hands with rope and tape and proceeded to remove the rest of the victim's clothing. Mr. Roush climbed on top of the victim and attempted to anally rape him. The victim was able to avoid being penetrated by Mr. Roush, who then forced the victim out of the car and started to drive off with the victim's property. The victim shouted at Mr. Roush to give him back his clothes and Mr. Roush reportedly threw the victim his pants.

Disposition: On 9/22/84, Mr. Roush was convicted of First Degree Robbery and sentenced to 20 years incarceration to run consecutive with cause #84618. Mr. Roush was paroled on 10/19/88.

1/12/1978 Assault First Degree (King County Cause #84618):

Mr. Roush (age 23) picked up a 15 year old male hitchhiker and eventually pulled out what appeared to be a pistol (it later turned out to be a pellet gun), placed it against the victim's head, and threatened to shoot the victim if he did not cooperate. Mr. Roush also had a knife on his person and another knife was later located nearby in the cabin of the vehicle. Mr. Roush instructed the victim to take off his clothes and told him he was going to rape him. The victim managed to jump from the moving vehicle and rolled into a ditch, incurring physical injury. The victim went to a nearby house where he called the police. Mr. Roush was subsequently arrested a week later, and explained that he demanded the victim's clothes because he needed to trade clothes for a dinner party. When asked if he had demanded oral sex from the victim, Mr. Roush stated he "couldn't remember."

Disposition: On 3/22/78, Mr. Roush was convicted of Assault in the First Degree. He was initially given a sentence of 10 years probation if he successfully completed the Sexual Predator Program at Western State Hospital. Mr. Roush was found to not be amenable to treatment on 7/25/78. He was then sentenced to 20 years incarceration with 10 years supervision. Mr. Roush was paroled on 5/11/83 and his parole was subsequently revoked due to the 1984 Robbery offense.

Non-Adjudicated Sex Offenses

Additional Sexual Behavior:

Mr. Roush has admitted to having had illegal sexual contact with multiple individuals when he was also a juvenile. Mr. Roush has reported that he and a male minor who lived in his neighborhood were riding bikes and he took him to a secluded area and attempted to orally copulate the victim. He also has admitted to molesting and performing oral sex on a minor male child who lived along his paper route. Mr. Roush estimated that his age at the time of these offenses was approximately 14-15 years old.

Non-Sexual Offenses

8/25/77: Unlawful Issuance of Checks or Drafts (Tacoma, WA) Guilty 8/26/1977 \$75.00 fine and 30 days jail suspended

8/19/1974: Obstructing a Public Servant and Shoplifting (King County). Guilty of Obstructing a Public Servant on 11/26/1974. \$75.00 fine.

1/22/1972 Assault King County (Juvenile). On 3/27/72, Mr. Roush was determined to be a dependent ward and was committed to the Child's Study and Treatment Center at Western State Hospital for 90 days.

HISTORY OF POLYGRAPH / PLETHSMOGRAPH (PPG) ASSESSMENTS AT THE SCC:

On 04/02/16, Mr. Roush was administered a sexual history polygraph by Mr. Brooks Raymond. During the pre-test interview, Mr. Roush disclosed the following relevant sexual behaviors:

- "At age 14, the client reports that he demanded that a 9 year old remove his pants and the client placed his mouth on the child's penis. He states that the child could not obtain an erection, so Mr. Roush stopped. He states that he was not charged for this behavior.
- At age 15, Mr. Roush reports that he became aroused while riding his bike with a 10 year old male. Mr. Roush demanded the child remove his pants and then placed his mouth on the child's penis. The client states that he then attempted to anally rape the child. Mr. Roush states he was not charged for this behavior.
- At age 22, Mr. Roush states he attempted to rape a 15 year old male who was in Mr. Roush's vehicle. The client reports that he picked up this male hitchhiking and held him at gunpoint. He states that the male jumped out of the car. Mr. Roush was charged for this incident.
- At age 29, Mr. Roush picked up an 18 year old male hitchhiker. While outside the car, the client demanded the male remove his clothing, at knife point. Mr. Roush then bound the male and removed his clothes, and attempted to perform oral sex on him. Mr. Roush states he attempted to anally rape this male; however, the victim kept moving around and Mr. Roush was not able to do so. The client states he was charged for this behavior.

- At age 34, Mr. Roush anally raped a 19 year old male that owed him money. Mr. Roush placed handcuffs on the victim and then became sexually aroused. Mr. Roush then removed the male's clothing and performed oral sex on him. Mr. Roush states that he then forced the male to perform oral sex on him, as well. Mr. Roush states he then anally raped the victim. He states he was charged for this behavior."

Mr. Raymond opined that Mr. Roush **WAS NOT attempting deception** when he answered "NO" to the following relevant questions:

- Have you forced anyone to have sexual contact with you that you did not report?
- Other than who you reported, have you physically forced anyone else to have sexual contact with you?

On 01/10/16, Mr. Roush submitted to a PPG assessment that was administered by Mr. Rick Minnich, who concluded that Mr. Roush's highest arousal was to the auditory scenario of Anal Intercourse with an Adult Male #2, at 63%. This was followed by Oral Sex with Adult Male #1, at 37%. Mr. Roush recorded an arousal of 27% to both Nonphysical Coercion of a Minor Male #2 and Exposure to Female Child from a Vehicle. His next highest recorded arousal was to Rape of a Male Child #2, at 23%. It was noted that Mr. Roush overestimated the age of most of the minors during the visual portion of the assessment. He was cooperative during the assessment and did not appear to physically dissimulate the results.

On 01/09/16, Mr. Roush participated in a maintenance polygraph that was administered by Mr. Raymond, who opined that he **WAS NOT attempting deception** when he answered "NO" to the following relevant questions:

- Since your last polygraph, have you masturbated to thoughts, images, or fantasies or minor aged males?
- Since your last polygraph, have you masturbated to thought, images, or fantasies of forced sex of coercion?

On 12/05/15, Mr. Roush appeared for a PPG assessment that was administered by Mr. Pete Sheridan, who reported that Mr. Roush was approximately 20% aroused to scenarios involving teen and older males. Mr. Roush did not appear to be aroused to scenarios involving females.

Following the above PPG assessment, Mr. Roush participated in a polygraph examination that was administered by Mr. Sheridan, who opined that that there was **NO DECEPTION indicated** when Mr. Roush answered "NO" to the following relevant questions.

- 1) Are you lying to me about actually attaching the penile gauge?
- 2) Did you intentionally suppress your responses during the plethysmograph test?

3) Are you lying to me about not masturbating in the past 24 hours?

On 11/27/15, Mr. Roush participated in a specific issue polygraph examination that was administered by Mr. Raymond, who opined that Mr. Roush **WAS NOT attempting deception** when he answered “NO” to the following relevant questions.

- Have you masturbated to thoughts, images, or fantasies of minor age males during the past 3 months?
- Have you masturbated to thoughts, images, or fantasies of forced anal rape during the past 3 months?

On 11/20/11, a PPG assessment was administered by Mr. Minnich, who reported Mr. Roush’s highest sexual arousal, at 35%, was to Anal Intercourse with an Adult Male #2. This was followed, at 33%, by Sadistic Rape of a Male Child #1; Sadistic Rape of a Minor Male #2; and Rape of a Male Child #2. It was noted that Mr. Roush overestimated the ages of most of the minor males presented during the visual portion of the assessment. He was cooperative during the assessment and did not appear to physically dissimulate the results.

Following the above-noted PPG, Mr. Roush participated in a polygraph examination that was administered by Mr. Minnich, who opined that **NO DECEPTION** was indicated when Mr. Roush answered “NO” to the following relevant questions.

- 1) Did you use any physical countermeasures to keep from becoming aroused during your plethysmograph assessment you just completed?
- 2) Did you use any mental countermeasures to keep from becoming aroused during your plethysmograph assessment you just completed?

On 9/27/06, Mr. Roush participated in a specific issue polygraph examination that was administered by Ms. Dawn Minnich. Mr. Roush admitted to engaging in “tickling (roughhousing),” which consisted of “poking a guy in the side, slapping the arm, ticking the head. There are a few that will try to give me a hug - some of them I let because I am in a real bad mood. They give me a hug and then they step away; they don’t hold it.” Ms. Minnich opined that there was **NO DECEPTION indicated** when he answered “NO” to the following relevant questions.

- 1) Besides tickling, have you engaged in inappropriate touching with another person in the past six months?
- 2) In the past six months, have you engaged in inappropriate touching with another person other than tickling?

On 07/26/06, Mr. Roush participated in a specific issue polygraph examination that was administered by Ms. Minnich, who opined that **DECEPTION WAS INDICATED** when Mr. Roush answered “NO” to the following questions.

- 1) Have you engaged in inappropriate touching with another person in the past six months?

- 2) Have you engaged in sexual behavior with another person in the past six months?
- 3) Have you viewed any pornography in the past six months?
- 4) Have you had thoughts of minors while masturbating in the past six months?

Mr. Roush stated that he had been engaging in “mutual tickling” with other residents at the SCC and that “this is always done right out in the open - nothing hid.” It was further noted that Mr. Roush was either unwilling or unable to offer any other reason for his deceptive responses.

On 07/26/06, a PPG assessment was administered by Ms. Minnich, who reported Mr. Roush’s highest arousal, at 41%, was to the audio scenario depicting the fondling of a male child. His next high recorded sexual arousal, at 34%, was to the audio scenario depicting sexual activity with a compliant male child. The “Fondle Male Child” scenario was presented a second time, with specific instructions to use any mental method learned in treatment to avoid becoming sexually aroused. Mr. Roush said he “focused more on the tape” the second time and in doing so was able to reduce his arousal to 06%. It was also noted that Mr. Roush tended to overestimate the ages of the children depicted in the visual portion of the assessment; but he didn’t appear to physically dissimulate the results.

On 10/25/03, Mr. Roush participated in a specific issue polygraph examination that was administered by Mr. Patrick Seaberg to re-address sexual history disclosures not previously made during his 08/10/03 sexual history polygraph. Mr. Roush admitted to being sexually involved with three neighborhood boys who were brothers. Some of incidents took place as a group of four individuals, and some occurred on a one-to-one basis. He stated the sexual activity went on for approximately six months, and was “consensual.” Mr. Roush reports he was 16 years old at the time and the neighborhood brothers ranged from 9 to 14 years old. Mr. Seaberg opined that Mr. Roush **WAS NOT attempting deception** when he answered “NO” to the following questions.

- 43) Have you engaged in a sexual act that you have not disclosed in your sexual history?
- 44) Have you intentionally withheld any information from your sexual history?
- 45) Did you lie or withhold any information from your sexual history?

On 08/10/03, Mr. Roush participated in a sexual history polygraph that was administered by Mr. Seaberg, who opined that Mr. Roush **WAS attempting DECEPTION** when he answered “NO” to the following relevant questions:

- 43) Did you lie or withhold any information from your sexual history questionnaire prepared for your therapist?
- 44) Did you lie to me today concerning your sexual history?
- 45) Did you lie or withhold any information about other victims from your sexual history questionnaire?

INSTITUTIONAL BEHAVIOR:

Department of Corrections:

- 12/21/78: Fighting. 5 days segregation and 5 days segregation suspended.
- 5/7/80: Theft. 10 days segregation suspended.
- 6/21/80: Attempting or aiding in a serious infraction, throwing material at staff. 30 days loss of good conduct time suspended for 90 days.
- 10/16/1980: Theft. 5 days cell confinement suspended for 90 days.
- 7/6/81: Attempt/Aiding commission of serious infraction. 5 days extra work duty.
- 4/9/86: Interfering with count. 10 days segregation.
- 9/24/1996: Sexual Acts. On 9/20/1996, Mr. Roush was observed with another inmate in bed. Mr. Roush was performing oral sex on the other inmate. Mr. Roush was sanctioned to 30 days loss of good conduct time with a further loss of 30 days suspended for 30 days.

Special Commitment Center: Concerning behaviors at the SCC are documented within a progress note or incident report; however, if the incident is viewed to be serious or problematic, it is documented as a Behavior Management Report (BMR).

- 9/23/12, Category 2 BMR for Clothing Infraction. Mr. Roush was given a written assignment to complete. It took him nearly 6 weeks to complete the assignment.

COMMUNITY SUPERVISION ADJUSTMENT:

Mr. Roush's offenses of First Degree Robbery (1984) and First Degree Rape (1989) both occurred while he was under supervision for a previous offense. Mr. Roush's parole was formally revoked by the Indeterminate Sentencing Review Board on 5/1/90.

EMPLOYMENT PLAN:

Mr. Roush reported he was first employed at age 11 mowing lawns, and he delivered newspapers at age 12 for approximately two years. After withdrawing from high school, Mr. Roush worked in two separate fiberglass jobs until age 18. According to a prior forensic evaluation, increases in salary prompted his job changes. He worked at a gas station for approximately six months but reportedly quit because he worked an evening shift that interfered with his social life. Mr. Roush also worked as a janitor for two years and at a mattress factory until the factory closed. Mr. Roush denied ever being fired from a place of employment. However, documentation from Mr. Roush's previous community employers appears to indicate that he was terminated or quit in lieu of termination for illegal and/or anti-social behaviors on the job.

Mr. Roush is currently employed in the kitchen at the SCC. Employment notes indicate that he is a good employee and is able to take on any task. When we met on 5/13/16, Mr. Roush voiced that he takes pride in his job. Mr. Roush was also very forthcoming regarding the difficulties he has in dealing with others while at work, but he said he has learned to manage his responses appropriately.

As with the other 43 individuals who are currently residing in the community on LRA status, Mr. Roush's Residential Community Transition Team (herein referred to as Transition Team), consisting of his supervising Community Corrections Officer (CCO) Dominic Winter, Sex

Offender Treatment Provider (SOTP) Jeanglee Tracer, and the SCC representative, will work closely with him to determine when/if he is capable of and ready to search for community-based employment. The Transition Team will ensure that a site survey of any potential employer/employment is completed, and any potential employment opportunities must also address identified risk factors raised by Mr. Roush. He will be referred to Work Source if/when the Transition Team feels he is ready and after he has worked with Ms. Tracer on a safety plan to address risks in the community when seeking employment and preparing for potential interviews. He will be expected to provide verification to his supervising CCO and an ongoing list of all job applications submitted.

There are also employment opportunities available at the SCTF-PC, performing various odd jobs around the complex to include landscaping, custodial work in the Program Services Building (PSB) and the grounds of the cottages. Residents are required to report to the PSB every morning at 8:30 AM and are assigned a random paid job. If the resident is unable to perform the job assigned due to a physical limitation or an off island trip, they are assigned a job that they are able to perform. Residents are paid an hourly wage of \$7.16, and are typically required to pay cost of care out of their earnings.

EDUCATION AND TRAINING:

Records indicate that Mr. Roush received his General Education Development (GED) certificate on 7/8/85 while at McNeil Island Corrections Center. There are no certificates or indicators that he took additional courses while incarcerated since that time.

VICTIM / WITNESS CONCERNS:

On 4/26/16, I contacted the DSHS Constituent Services, Victim/Witness Notification Program and the Department of Corrections Victim Services program and was informed that there is no one enrolled for notification in regards to Mr. Roush and/or nobody has responded to inquiry by these agencies.

COMMUNITY SUPPORT:

If a LRA is ordered, Mr. Roush's community support will include his Transition Team members and any resources available to them.

Mr. Roush stated that most of the individuals he may request to have contact with may not be approved, as they have felony records and/or were sex offenders. Mr. Roush stated that he does not have much in the way of community support but hopes to build pro-social contacts by going to a local senior activity center. Mr. Roush also voiced a desire to be in contact with his older brother, who is partially disabled due to a head injury.

Unless otherwise authorized by the Court, if Mr. Roush wants to have any form of contact with individuals other than fellow residents at the SCTF-PC or those he is in treatment with, the individuals must in turn be willing to have contact with him, and each must be willing to submit to a criminal history background check and have the prior authorization of the Transition Team before any contact is initiated.

SUMMARY:

Mr. Roush is a 60 year-old white male who was admitted to the SCC on 7/23/02 and was subsequently civilly committed as a Sexually Violent Predator under RCW 71.09 on 10/25/02. His history includes recurrent sexually coercive offenses against minor males and adult males with whom he did not have a meaningful prior relationship.

On 2/26/16, then SCC CEO Mark Strong signed a Notice of Authorization to Petition for Conditional Release to Less Restrictive Alternative endorsing Mr. Roush to petition for a release to the SCTF or like facility.

Mr. Roush has reportedly made significant strides through treatment in learning to manage his behaviors in a controlled environment. He has also reportedly been transparent regarding areas where he continues to struggle, to include managing his anger and deviant sexual interests. Mr. Roush has disclosed during treatment that he found some younger residents attractive, and that he avoided interacting with them unless there were witnesses so that he has some accountability. Clinical notes indicate that a primary area of concern is Mr. Roush's continued vagueness in some of his self-disclosures, as well as what appears to be superficial reporting of significant events. Mr. Roush reported that he has started to keep a journal, as well as logging his sexual behaviors, including fantasies and masturbation; however treatment notes received are not as up to date on this matter.

It should be noted that two individuals Mr. Roush has previously reported having inappropriate sexual thoughts or engaging in concerning behaviors with, are currently residents at the SCTF-PC. One resident is very young in both appearance and behavior. Unless otherwise authorized by the Court, if Mr. Roush wants to have any form of contact with individuals other than fellow residents at the SCTF-PC or those he is in treatment with, the individuals must in turn be willing to have contact with him, and each must be willing to submit to a criminal history background check and have the prior authorization of his Transition Team before any contact is initiated. To his credit, Mr. Roush appears to have reported his own concerns about the younger resident while they were at the SCC together, and he says he managed his behavior by either avoiding this person or only interacting with him when other witnesses were nearby.

I spoke with briefly with Deborah Larowe-Prado, Residential Program Director at the SCTF-PC, regarding any concerns she has regarding Mr. Roush interacting with either of these individuals.

She stated that she will not authorize Mr. Roush to live in the same cottage with the younger resident, and Mr. Roush would not have any reason to visit the cottage. Any interactions the two may have would be restricted to an open, observable area of the facility. Regarding the second resident, Ms. Larowe-Prado voiced that Mr. Roush will need to learn to interact appropriately with others as a part of his transition, to include working collaboratively with individuals he does not get along with or has had negative interactions with in the past.

RECOMMENDED CONDITIONS:

Should the Court grant the proposed LRA placement at the SCTF-PC, located in the center of McNeil Island, it would provide the highest level of security and safety while Mr. Roush attempts to transition back into the community. He will be monitored 24 hours a day, 7 days a week, and whenever he travels off island, DSHS staff will supervise him closely and maintain close proximity at all times. Mr. Roush has additionally agreed to abide by all conditions recommended by the proposed certified SOTP. The DOC recommends the following conditions in the event that the Court does authorize the proposed LRA:

RESIDENTIAL CONDITIONS:

1. Mr. Roush shall release to the SCTF in Pierce County. He shall not change his residence without further order from the Court and in compliance with RCW 71.09.140 for notification to ensure safety to the community.
2. Mr. Roush shall register as a sex offender with the Pierce County Sheriff's Office on the day of his release and pursuant to RCW 9A.44.130 thereafter until otherwise relieved of that duty. Prior to this release, Mr. Roush shall have DNA test results on file with the Washington State Patrol in concurrence with RCW 43.43.754.3.
3. Mr. Roush shall not be at large alone in the community. He shall not leave the confines of his residence except for activities pre-approved by the Court or his Transition Team. During any such approved outing, he must be accompanied at all times and be under the direct supervision of an "approved monitoring adult" who must supervise him closely and maintain close proximity pursuant to RCW 71.09.305(1)(b). Staff employed by the SCC, the supervising CCO (or designee) and the designated SOTP are automatically approved monitoring adults. Additional individuals may be designated as approved monitoring adults by the Transition Team or by the court. Any additional person agreeing to provide monitoring services may be compelled to testify and any privilege with regard to such person's testimony is deemed waived pursuant to RCW 71.09.096(3).
4. Mr. Roush shall abide by all rules, regulations, and policies of the Court, Department of Corrections, SOTP and the SCTF-PC, including staff directives. The SCTF Handbook will be provided to and signed by Mr. Roush upon his transfer to the facility, and a signed copy

will be provided by SCTF staff to his Transition Team.

5. The SCTF-PC shall immediately notify law enforcement if Mr. Roush leaves the SCTF-PC without permission. The SCTF-PC shall also immediately report to the Court, Assistant Attorney General, CCO and the SCC Chief Executive Officer if Mr. Roush leaves the housing to which he has been assigned or violates any of the conditions of his Court order.

SUPERVISION CONDITIONS:

1. The Department of Corrections shall supervise Mr. Roush. He will initially report to the supervising CCO on the day of his conditional release from the SCC, and as otherwise directed thereafter.
2. Mr. Roush will comply will all DOC verbal and written instructions.
3. The assigned CCO shall report to the Court, Assistant Attorney General, defense attorney, SCC representative, the SCC CEO, and SOTP any violations of Mr. Roush's Court Order. The CCO shall notify the Assistant Attorney General by email at the following email address: CRJSVPEF@atg.wa.gov. Copies to the Attorney for Respondent shall be emailed to kpage@co.pierce.wa.us and pbanken@co.pierce.wa.us or mailed to 949 Market Street, Suite 334, Tacoma, WA 98402.
4. Pursuant to RCW 71.09.098, if the assigned CCO reasonably believes that Mr. Roush is not complying with the terms and conditions of his conditional release order, the CCO may order that he be taken into custody until such time as a hearing can be scheduled to determine the facts and whether Mr. Roush's LRA should be revoked or modified. The Court, prosecuting agency and defense counsel shall be notified before the close of the next judicial day of Mr. Roush's detention.
5. Mr. Roush will submit a travel request log to the SCTF-PC Residential Program Director or designee at least one week in advance of proposed travel. The travel log will include the date, time, and any contacts he may have during each proposed outing, as well as the approved chaperone who will accompany him.

TREATMENT CONDITIONS:

1. Mr. Roush shall engage in sex offender treatment with Ms. Jeanglee Tracer, a certified Sex offender Treatment Provider. He shall not change treatment providers without permission of the Court.
2. Mr. Roush shall sign and comply with Ms. Tracer's treatment plan and treatment rules for him, both written and verbal. Any proposed modification of the treatment plan or contract must be provided to the other Transition Team members. If the members of the Transition

Team disagree on a proposed modification, the Court shall decide. Mr. Roush must sign any modified treatment plan or contract, and the SOTP must immediately provide a signed copy to the SCC, Assistant Attorney General, defense attorney, and the CCO.

3. Mr. Roush shall participate in any treatment, including but not limited to sex offender treatment, chemical dependency, Alcoholics/Narcotics Anonymous, couples counseling, and any other treatment or therapy as recommended by the Transition Team.
4. Ms. Tracer shall submit a written monthly report to the Court, addressing Mr. Roush's treatment progress and compliance with the Court Order, with copies to the Assistant Attorney General / King County SVP Prosecutor, defense attorney, and each member of the Transition Team. Copies to the Assistant Attorney General shall be sent by email to the following email address: CRJSVPEF@atg.wa.gov or by mail to the following address: 800 5th Avenue, Suite 2000, Seattle, WA 98104. Copies to the Attorney for Respondent shall be emailed to kpage@co.pierce.wa.us and pbanken@co.pierce.wa.us or mailed to 949 Market Street, Suite 334, Tacoma, WA 98402.
5. Ms. Tracer will immediately report to the Court, Assistant Attorney General, CCO, SCC CEO and SCC representative any violations or possible violations of Mr. Roush's Court Order or treatment conditions.
6. If Mr. Roush is terminated from treatment with Mr. Roush, he shall, consistent with RCW 71.09.098(2), immediately be taken into custody and a hearing will be scheduled to determine whether his LRA will be revoked pursuant to RCW 71.09.098(3).
7. If Ms. Tracer decides to discontinue treatment for any reason other than non-compliance or lack of progress, he must give forty-five (45) days written notice to the Court, Assistant Attorney General defense attorney, CCO, SCC representative, and SCC Chief Executive Officer . Treatment with this provider shall continue until such time that the Court may conduct a hearing to consider approval of an alternative provider pursuant to RCW 71.09.092.

STANDARD CONDITIONS:

1. Mr. Roush shall comply with all verbal and written instructions of the Court, the SOTP, the Department of Corrections, and SCC/SCTF representatives.
2. Mr. Roush shall be subject to electronic home monitoring at all times pursuant to RCW 71.09.305. The electronic monitoring devices shall employ global positioning system (GPS) technology and /or such monitoring devices as may become technologically advanced.
3. Mr. Roush shall obtain approval from the Transition Team prior to acquiring or

participating in employment, education, social or volunteer opportunities in the community.

4. Mr. Roush shall have no intentional direct or indirect contact with any prior victims or their families without the express written consent of the Court. For purposes of this condition, “victim” is defined as anyone with whom he has had unwanted or illegal sexual contact in the past, regardless of whether the contact resulted in a conviction or legal action. The Transition Team will resolve any questions as to what constitutes a “victim.” If there is a question as to whether an individual is a prior victim, he shall have no contact with that individual.
5. Mr. Roush shall not have intentional direct or indirect contact with minor children under the age of eighteen (18) without the express written consent of the Court, and then only in the presence of an approved adult monitor.
6. Mr. Roush shall not frequent or loiter outside of establishments that cater primarily to minors without the written permission of the Transition Team and then only in the presence of an approved monitoring adult. For purposes of this condition, establishments that cater primarily to minors include the following: elementary schools, junior high or middle schools, high schools, daycares, parks, recreation areas, playgrounds, school bus stops, swimming pools, zoos, and arcades. The Transition Team may modify this condition if the Transition Team determines that a specific proposed establishment does not cater primarily to minors and is an appropriate location for the Mr. Roush to visit.
7. Mr. Roush shall not have intentional regular contact with any individual who has not previously been approved by his Transition Team.
9. Mr. Roush shall not initiate or engage in a physical or romantic relationship with another person without the express written approval of his Transition Team. Any such relationship will require the individual’s consent.
10. Mr. Roush is prohibited from having contact with known convicted felons or persons with any type of sex crime conviction, with the exception of individuals participating in his treatment groups or other individuals who live in the community at the SCTF-PC. The Transition Team may review and modify this condition in writing with respect to specific individuals.
11. Mr. Roush shall not own, possess, receive, ship, or transport any firearm, ammunition, incendiary device, or explosive, nor shall he have any parts thereof.
12. Mr. Roush shall not purchase, possess, or view any pornographic materials, as defined by his SOTP, including but not limited to materials depicting consensual sex, sex with violence or force, sex with non-consenting adults, or sexual activity with children. The SOTP may

make exceptions to specifically identified pornographic materials upon written notification to the CCO and SCC representative. Mr. Roush shall not share such approved materials with any other SCTF residents.

13. Mr. Roush shall not purchase, possess, view movies or play video games depicting sexual themes or excessive violence. The Transition Team will resolve any questions as to what constitutes sexual themes or excessive violence.
14. Mr. Roush shall not use or have access to the internet, including via computer, cellular phone, iPad, tablet, Play Station/Xbox, or any other computer modem or communications software without the prior written permission of the RCTT or the Court. If permission is granted to use or possess the above noted devices, the Court/Transition Team may impose limitations and controls over the use of these devices, including but not limited to Mr. Roush not possessing a personal computer at his residence/room.
15. Mr. Roush shall not enter into an adult entertainment center where nudity or erotic entertainment or literature/magazines are the primary source of income.
16. Mr. Roush shall not purchase, possess or consume alcohol, marijuana/THC, or any controlled substances, except pursuant to a lawfully issued prescription made out for him by a licensed physician. He shall immediately provide written verification of any prescription medication to the Transition Team.
17. Mr. Roush shall submit to drug screens, Breathalyzer alcohol assessments or other methods of detecting the use or presence of alcohol, marijuana/THC, and controlled substances at the discretion of any member of the Transition Team.
18. Mr. Roush shall abide by any medications/therapy prescribed by his medical and psychological treatment providers.
19. Mr. Roush shall not frequent bars, taverns, casinos or any establishment where the primary source of income is the sale of alcoholic beverages or marijuana/THC.
20. Mr. Roush shall obey all state, federal, tribal and municipal laws.
21. Mr. Roush shall not leave the State of Washington without an Order from the Court.
22. Mr. Roush shall not leave his county of residence without the prior written approval of his Transition Team and written authorization from his CCO.
23. To maintain compliance with the conditions of the LRA Court Order, Mr. Roush shall submit to searches of his person, computer, residence or property at the discretion of any member of his Transition Team. SCTF-PC staff is permitted to conduct authorized searches of Mr. Roush residence to ensure the safety and smooth operation of the facility.

24. Mr. Roush shall participate in periodic polygraph testing at the discretion of any member of the Transition Team. Polygraph assessments can assess sex offender specific compliance issues. He shall submit to plethysmographic assessment at the discretion of the SOTP.
25. Mr. Roush shall make no effort to thwart, disable, or limit the effectiveness of any monitoring mechanism imposed upon him, including but not limited to polygraphs, plethysmographs, GPS, and other forms of electronic monitoring. He shall strictly comply with all monitoring protocols required. Mr. Roush shall be required to pay for any damages to monitoring equipment that caused by negligent actions on his part.
26. Mr. Roush shall not drive any motor vehicle or possess a driver's license without the prior written permission of his Transition Team. In the event that Mr. Roush obtains a legal, Washington State driver's license, he shall provide proof of valid insurance, as well as the make, model and year of any vehicle he drives. Mr. Roush shall not provide rides to anyone without permission from his Transition Team.
27. Mr. Roush shall previously report the make, model, and year of any private vehicle he rides in, as well as the driver's contact information, to the Transition Team.
28. Mr. Roush shall make regular monetary payments toward any outstanding Court-ordered Legal Financial Obligations (LFOs) or any other financial commitments.
29. Mr. Roush must provide a copy of his monthly bank and/or credit card statements to the Transition Team upon request.
30. Mr. Roush shall maintain an accurate phone log of his phone calls and provide a copy to the Transition Team upon request.
31. DSHS shall be responsible for treatment costs pursuant to RCW 71.09.110. DSHS may obtain reimbursement for the cost of care and treatment pursuant to RCW 71.09.110 and the applicable Washington Administrative Code.
32. If Mr. Roush is not in compliance with the terms and conditions of his LRA Order, he may, consistent with RCW 71.09.098(2), immediately be apprehended and taken into custody until such time as a hearing can be scheduled to determine the facts and whether or not the conditional release should be revoked or modified. The revocation or modification hearing shall be scheduled with the Court pursuant to RCW 71.09.098.
33. Law enforcement and/or peace officers are authorized to arrest Mr. Roush for any violations of the LRA order as described in RCW 71.09.098.
34. Mr. Roush shall comply with all provisions of the LRA Order and any subsequent modifications thereof. Mr. Roush shall, within twenty-four (24) hours, notify his treatment

provider, his CCO, and SCC representative if he has violated, or arguably violated, any provision of the LRA Order.

35. The conditions required of Mr. Roush by his Transition Team and imposed upon him by the Court Order, should, where possible, be read together and in harmony with one another. However, there may be a situation in which they conflict. If this occurs, the SOTP, CCO, and the SCC representative shall consult with one another to resolve the conflict. If the Transition Team is unable to do so, the Court will determine the matter. Until such time as any conflict is determined, Mr. Roush shall follow the strictest rule applicable, consistent with ensuring public safety.

SPECIAL CONDITIONS:

1. Mr. Roush shall not hold any position of authority or trust involving children under the age of 18, and shall not supervise or participate in any program that includes anyone who is under 18 years of age.
2. Mr. Roush may not possess images of children or view media directed towards or focused upon children without the prior consent of his Transition Team. Possession of visual depictions of semi-clad or naked children is prohibited.
3. Mr. Roush shall not access premium cable television channels without the prior written approval of his Transition Team.
4. The SCC shall provide a list of all approved media (movies, video games, CDs, etc.) to the assigned CCO upon his release from the SCC, and any additional media must be pre-approved by the Transition Team prior to purchase, rental and/or possession.
5. Mr. Roush will not possess a police scanner or other short wave device.
6. Unless otherwise authorized by his Transition Team, Mr. Roush shall not enter any public washroom or other rest facility that has not been checked for the presence of minor children and found to be free of minors by an approved monitoring adult immediately prior to his entering the facility.
7. Mr. Roush shall not possess any item resembling a firearm (i.e. pellet gun/airsoft pistol) in appearance for any reason. Mr. Roush shall be restricted from possessing knives or other bladed instruments/tools outside of the kitchen/cooking area of his residence without the express written permission of his RCTT and then only under direct supervision of an approved monitoring adult.
8. Mr. Roush shall refrain from knowingly entering or frequenting any known area of prostitution (SOPA zone).

I certify or declare under penalty of perjury of the laws of the state of Washington that the foregoing statements are true and correct to the best of my knowledge and belief.

Submitted By:

Approved By:



6/10/16

Date

Dominic Winter
Community Corrections Officer
Civil Commitment Program
10109 S. Tacoma Way Bldg C4
Lakewood, WA 98499
253-983-7144



06/10/16

Date

Kimberly M. Acker
Civil Commitment Program Administrator

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WASHINGTON STATE ATTORNEY GENERAL

August 22, 2016 - 3:49 PM

Transmittal Letter

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Case Name: In re the Detention of Dale Roush

Court of Appeals Case Number: 48150-2

Is this a Personal Restraint Petition? Yes ☐ No ☒

The document being Filed is:

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Supplemental Designation of Clerk's Papers

Statement of Arrangements

Motion: _____

Answer/Reply to Motion: _____

☒ Brief: Respondent's

Statement of Additional Authorities

Cost Bill

Objection to Cost Bill

Affidavit

Letter

Copy of Verbatim Report of Proceedings - No. of Volumes: _____

Hearing Date(s): _____

Personal Restraint Petition (PRP)

Response to Personal Restraint Petition

Reply to Response to Personal Restraint Petition

Petition for Review (PRV)

Other: _____

Comments:

No Comments were entered.

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